

<p style="text-align: right;">Page 194</p> <p>1 G. Hayden 2 A. See this door? You see that 3 door? Do they look the same to you? Does 4 this look the same as this? Or does it look 5 much thicker to you? Maybe you can't tell. 6 Q. I can't tell. 7 A. Well, it is not the same, so 8 obviously it is redrawn and it is not off the 9 same AutoCAD. 10 It is a different light type 11 which would suggest a different kind of a door 12 handle, a different kind of look, a different 13 kind of everything. So it is technically a 14 redrawing, I can tell you that much. 15 What about the lettering, if you 16 notice any of that, do you see all this 17 reflected on that? Or maybe not. Maybe you 18 do. It is a different drawing, totally 19 different. All this explanation all this 20 lettering all that stuff, both sides, it is 21 not the same. Or is it? 22 So again I'm going to tell you 23 for the last time, so we can go home early 24 enough. This document is prepared to 25 facilitate the construction of a design</p>	<p style="text-align: right;">Page 196</p> <p>1 G. Hayden 2 dining room? The dining room elevation is the 3 dining room. My dining room is over here, my 4 living room is over here. Okay? The last one 5 that would be the foyer is over here. So 6 foyer, dining, living room, detail. 7 MR. McKEE: All on A-5. 8 A. This is how the sheet is 9 organized. So any kind of contractor looking 10 at this can say, yeah, let's take a look at 11 the foyer, here's all the walls of the foyer. 12 Let's move to the dining room, there's all the 13 walls of the dining room. He can do it very 14 easy, and it is not really a matter of 15 thinking. How you hang the panels? You hang 16 the panels like that. 17 MR. McKEE: Like what? 18 THE WITNESS: As shown on the 19 panel installation detail and to scale, 20 that's very clear and very precise as 21 to how the panels get put on these 22 walls when they come from Italy. 23 Q. That's on the upper right-hand 24 corner of A-5, correct? 25 A. Correct. That's how you install</p>
<p style="text-align: right;">Page 195</p> <p>1 G. Hayden 2 concept by this Pepe on. Whatever information 3 was given to me we have facilitated the 4 construction of his little concept on a 5 complete and legible set of documents that was 6 executed 100 percent. Now what's wrong with 7 that story? Okay? 8 Q. Let's turn our attention to 9 page A-5. And I would ask you to compare 10 page A-5 of Defendant's Exhibit 8 with 11 Mr. Calderon's designs in Plaintiff's 12 Exhibit 2. I would ask if the drawings to 13 page A-5 are taken from Mr. Calderon's 14 designs? 15 MR. McKEE: Objection to form. 16 A. Inclusive of this horrible 17 chandelier here that he stuck in the foyer, it 18 does, it's got to. Because that chandelier 19 here in the foyer is very heavy and it has to 20 be supported. So if you don't show it, they 21 will have to support it. 22 Essentially the answer to that 23 should be the same, because if you don't do 24 that, you'd be missing something. So this 25 living room, dining room whatever, this is</p>	<p style="text-align: right;">Page 197</p> <p>1 G. Hayden 2 these panels. That's exactly how the panels 3 were put in. So the fasteners are not visible 4 from the phase of the panels, it is behind the 5 panels. They hook from the top like this. 6 Hook it up from the top, that's exactly what 7 it is. 8 Q. Are there any differences 9 whatsoever between your drawings on A-5 and 10 Mr. Calderon's designs contained in 11 Plaintiff's Exhibit 2? 12 A. As I said, his drawings are a 13 little bit, 8-1/2 by 11 sheets. If you take 14 the dining room which got, 1, 2, 3, 4, to my 15 dining room 1, 2, 3, 4. They have to be about 16 the same. 17 Q. Sitting here today, do you see 18 any differences? 19 MR. McKEE: Objection. 20 MR. ISRAEL: Objection. 21 A. As I said, the lettering, around 22 the perimeter, is not the same. Okay, that 23 was put in by us. 24 Q. When you say the lettering around 25 the perimeter you're referring to the material</p>

50 (Pages 194 to 197)

<p style="text-align: right;">Page 198</p> <p>1 G. Hayden 2 description? 3 A. Right, the material description 4 is put in by us. But you got to respect his 5 material selection when it says, marble/suede 6 panel, marble/suede panel on the other. That 7 is pointing to the right section of the panel, 8 to call it whatever you want to call it. As I 9 said, you can change that and you get all 10 different paneling, right? 11 Remember it went to Italy, so you 12 have to be careful what you call it. I called 13 it what I call it. So essentially if you 14 don't follow these little sketches Vladimir 15 will get a panel he did not order. 16 Q. So very specifically, other than 17 the lettering that describes the materials 18 around the outside of the drawings on 19 page A-5, are there any other differences 20 between your drawings on page A-5 and 21 Mr. Calderon's designs that are contained if 22 Defendant's Exhibit 2? 23 MR. ISRAEL: Objection. You can 24 answer. 25 A. Let's take a look at the living</p>	<p style="text-align: right;">Page 200</p> <p>1 G. Hayden 2 are any other differences. 3 MR. ISRAEL: Objection, he was 4 answering the question. 5 A. The differences are additional 6 information that the contractor is going to 7 need to build it. That's what I'm here for. 8 But I'm not going to change what he put down 9 for the contractor to build something either, 10 okay? We're going to make the contractor do 11 what we want him to do using that concept. Am 12 I right or wrong or? Or maybe I'm not right 13 or wrong, or maybe you don't care. 14 Q. It is not for me to judge whether 15 you're right or wrong. I am just here to get 16 facts. 17 Other than the differences you 18 described here today, are there any other 19 differences between your drawings on page A-5 20 and Mr. Calderon's drawings on Plaintiff's 21 Exhibit 2? 22 A. No. 23 Q. I am showing you again, 24 Mr. Hayden, what's been marked as Defendants' 25 Exhibit 7, and I am turning to page A-8. Am I</p>
<p style="text-align: right;">Page 199</p> <p>1 G. Hayden 2 room for a moment. See if there is any major 3 variation. Not really -- it is more on the 4 interpretation of that. Dimensions are 5 indicating the soffit, it doesn't have here. 6 It is more like organization in a way so the 7 contractor can actually do this. You know? 8 Q. So am I correct, your designs on 9 page A-5 are the same as Mr. Calderon's? 10 A. Don't call it my design, it is 11 his design. 12 Q. All right, all right. I 13 apologize. 14 A. No problem. 15 Q. So you said the lettering on the 16 outside of the living room elevation and some 17 of the numbers used to represent the 18 dimensions on the living room elevations are 19 different between your drawings and 20 Mr. Calderon's drawings. Are there any other 21 differences? 22 A. What the contractor needs to 23 install these things -- 24 Q. I'm not asking what the 25 contractor needs. I'm just asking if there</p>	<p style="text-align: right;">Page 201</p> <p>1 G. Hayden 2 correct that page A-8 contains living room 3 elevations? 4 A. Living room elevations? It is 5 very close, I'm telling you. 6 MR. MCKEE: No, no. The question 7 is, does it contain living room 8 elevations? What is the sheet 9 entitled? 10 THE WITNESS: Living room, you 11 see up there, living room elevations. 12 Q. Are there any differences between 13 Defendants' Exhibit 7 page A-8 and the living 14 room elevations contained on Exhibit A? 15 A. Absolutely, huge differences. 16 Q. What are those differences? 17 A. Just to say the least, is the 18 type of doors they have on the library, the 19 type of panels you have on both sides of that 20 wall, day and night. 21 Q. We're just talking about -- I 22 didn't mean to interrupt. 23 A. It is not even close. This is 24 what you want, right, this is the elevation 25 you're looking at.</p>

51 (Pages 198 to 201)

<p style="text-align: right;">Page 202</p> <p>1 G. Hayden 2 MR. MCKEE: You're talking about 3 elevation number 2. 4 A. Well, you can name it 2, but as a 5 matter of fact this reflects this. 6 Q. It is the south elevation? 7 A. Whatever. You call it A, B, it 8 is A, B. So this is that. This scale is 9 double the scale of this one so it looks 10 bigger. That's essentially the same 11 elevation. 12 What I'm saying is, if you look 13 at the doors to the library, right? 14 Q. The doors of the library? 15 A. They're not the same doors. 16 Q. What's different about the doors? 17 A. Different design altogether. 18 Totally different. You see the panels on the 19 door, the more horizontal on this one and more 20 vertical on that. You see the panel here is 21 not the same panel that you see there. 22 MR. MCKEE: Panel to the right 23 and left of the door. 24 A. You see the other side is stone. 25 I don't see any material. This is more like a</p>	<p style="text-align: right;">Page 204</p> <p>1 G. Hayden 2 need to ask you about is about page A-16. So 3 am I correct that A-16 specifies the materials 4 to be used in the various living room 5 elevations? 6 A. You really want me to look at 7 that drawing for you right now? 8 Q. Yes, please. 9 A. And give you that answer? 10 Q. Yes, please. 11 A. I don't understand why I'm 12 suppose to do that. 13 THE WITNESS: Is that okay? 14 MR. ISRAEL: Do it. Give him his 15 answer. 16 A. He's got leather on the top, 17 okay, and he's got this -- I don't know what 18 this is all about. And in between one foot 19 and a half of what, you go to section 12 of 20 A-15 you might be able to figure it out, okay? 21 Maybe I do this every day and I 22 don't have to refer you to a million different 23 drawings to get you an interpretation of what 24 this is all about. Still I'm not seeing 25 materials, okay. You got a stone rail. Yeah,</p>
<p style="text-align: right;">Page 203</p> <p>1 G. Hayden 2 sketch. This is worse than the other guy's 3 sketching. I'm telling you the truth. You 4 can't build from that either, okay? There is 5 no specifications of material, none of that 6 junk is in there, so how do you do that? 7 Unless you tell me this is not a complete set. 8 It will take a genius. 9 Q. What information is missing? 10 A. Can you tell me what kind of 11 panel that is? You tell me what it is. 12 Q. Let's turn to page A-16, and am I 13 correct that A-16 provides material 14 descriptions? 15 A. Yeah, but where did you get A-16? 16 Did I ever see this horrible drawing? I never 17 saw that. Where do you come up with that? 18 Q. It is your opinion that page 18 19 is a horrible drawing, correct? 20 A. It is not horrible. A great 21 drawing on A-16, why are you sticking it in my 22 face? I have nothing to do with it. Did I 23 ever see that? 24 Q. Unfortunately I have to ask you 25 some questions here. One of the questions I</p>	<p style="text-align: right;">Page 205</p> <p>1 G. Hayden 2 it is scattered. It is scattered all over the 3 place, okay. While in fact that little sketch 4 from the designer consolidated that even 5 further. You don't have to do all this. 6 But the question is, if he has 7 all these so called stupid drawings, what do 8 you want from me now? Why did you make me do 9 this? Okay, what did you do that for? 10 Q. I'm just asking you about 11 similarities. 12 A. I'm very, very, very annoyed 13 about the subject. If he had all of these, 14 what do you need this for then? He bit from 15 this and he had all these. 16 MR. ISRAEL: Say what you're 17 pointing to. 18 A. My drawing A-5 constructed the 19 entire apartment at 515 Park Avenue. This 20 little drawing did the whole job for you. 21 Okay. Now you're telling me he had the same 22 interpretation of this drawing on that set of 23 construction documents, and then yet he asked 24 for this? 25 Q. I'm trying to understand exactly</p>

52 (Pages 202 to 205)

<p style="text-align: right;">Page 206</p> <p>1 G. Hayden 2 what you're saying. Is it your testimony that 3 you find it hard to believe that 4 Mr. Voronchenko and Medallion were in 5 possession of this document which is 6 Defendant's Exhibit 7? 7 MR. MCKEE: Objection. 8 MR. ISRAEL: Objection. 9 A. It is not that I'm finding it 10 hard to believe, I am not understanding the 11 degree in which -- regardless of what I'm 12 looking at in here, this had absolutely no 13 impact on the construction of the site. 14 MR. ISRAEL: Say what you are 15 referring to. 16 A. This set of great drawings that 17 you call -- 18 MR. MCKEE: Defendant's 7. 19 A. Whatever you call it, had no 20 impact or direct relationship to the job site 21 in any circumstance. It was never seen, was 22 never interpreted, was never looked at. Of 23 course, was never filed, was never even 24 considered to be in existence. This is what 25 he built from, like it or not. And you might</p>	<p style="text-align: right;">Page 208</p> <p>1 G. Hayden 2 one -- 3 A. Only if you -- 4 Q. Let me finish. 5 A. Go ahead, go right ahead, please 6 do. 7 Q. It is your testimony that no one 8 involved in the design or renovation of the 9 apartment ever saw Defendant's Exhibit 7? 10 A. That is not what I said. 11 Q. Okay. So let me ask you -- 12 A. During the construction process, 13 and the reason why you would have a set of 14 drawings like that is for construction 15 purposes during the construction process. The 16 demolition, the erection of the walls, the 17 removal of the mold, and all of the above. 18 Nobody at any given point made reference to 19 anything like this, whatsoever. 20 Do you need this? It is not my 21 point. My point is, this was never brought to 22 the life of this project under any 23 circumstances by any contractor, 24 subcontractors, whatever. 25 Nonetheless, I can tell you one</p>
<p style="text-align: right;">Page 207</p> <p>1 G. Hayden 2 say this A-5, this little drawing of yours, 3 A-1 through A-5, in fact, did the whole 4 apartment, the answer is brief, yes, it did. 5 Do I need all this? Tell me. You tell me. 6 MR. ISRAEL: He wants you to tell 7 him. 8 Q. Even if I understood what you're 9 asking, I wouldn't answer the question because 10 I can't give any evidence, only you can. 11 A. What evidence? This is like a 12 bunch of things that you want me to do, you 13 want me to interpret it to you, is that what 14 you want me to do? 15 Q. Is it your testimony -- 16 A. I'm really serious now. 17 Q. Hold on. Is it your testimony 18 that Defendant's Exhibit 7 was not used at any 19 point in the design or renovation of the 20 apartment? 21 A. No. 22 Q. You're positive about that? 23 A. No, no. Absolutely not even 24 close, nobody ever saw this. 25 Q. So it is your testimony that no</p>	<p style="text-align: right;">Page 209</p> <p>1 G. Hayden 2 more thing. If you work in accordance with 3 these documents, you're in violation of the 4 permit. And why is that? Because the permit 5 has the application numbers with documents 6 attached to it, and does not include these 7 horrible drawings. So what does that tell 8 you? This thing is meaningless, meaningless. 9 You know what? I don't want to 10 look at it. It is more than meaningless. 11 This is what built the apartment. For the 12 little fee that I got, this is what built the 13 apartment, like it or not. 14 Q. Does Plaintiff's Exhibit 7 bother 15 you? 16 A. It doesn't bother me. It doesn't 17 bother me. It is irrelevant to the 18 construction process altogether and to the 19 final analysis, what the client got. They did 20 not do to those documents, it is done to those 21 documents. 22 Q. So the record is clear, during 23 his answer to the previous two questions, 24 Mr. Hayden folded up Plaintiff's Exhibit 7 and 25 pushed it away from him. And that's why I</p>

53 (Pages 206 to 209)

<p style="text-align: right;">Page 210</p> <p>1 G. Hayden 2 asked whether -- 3 A. Let's open it one more time and 4 make you happy. 5 Q. -- the document bothered you in 6 some way. 7 A. It didn't bother me, no, no, no. 8 It did not bother me at all. The fact that 9 I'm finding this document completely 10 irrelevant is that the construction process, 11 it really bothered me. You're not presenting 12 something that was used during construction 13 that I looked at and I approved of. Because 14 remember, this is my CO, it is my job, it is 15 my drawings, it is my ending, signing off the 16 job, it is my job. I see a document on the 17 construction site unrelated to my seal and 18 signature, they are rejected. 19 Q. Did Pepe -- 20 A. And the job is stopped, stopped. 21 Q. Did Pepe Calderon copy 22 Plaintiff's Exhibit 7? 23 MR. ISRAEL: Objection. 24 MR. McKEE: Objection. 25 A. That's his problem. How would I</p>	<p style="text-align: right;">Page 212</p> <p>1 G. Hayden 2 A. You tell me, listen this is a 3 \$1,000 fee except it is really stolen. You 4 think I'm going to take it? You keep it, you 5 stole, you keep it my friend. I'm not going 6 to do that for you, okay? And encourage you 7 to cost you another thousand dollars. I'm not 8 going to do that. The answer is, no. 9 If Pepe came to my office and 10 said, oh, by the way, you know what, you know, 11 I took it from whatever, it is yours. Really? 12 Yeah. Do I need that, like a hole in the 13 head, right? Somebody comes to you and said 14 the client wants you to do that and he 15 designs. Do you like the way it looks? 16 Absolutely. Is it better than these Chinese 17 and Russians? Yes, it is. Can you give this 18 guy what he's looking for? Sure. And you 19 throw this out, this thing over here, what is 20 this? 21 Q. We're not making a lot of 22 progress. 23 A. That's good. I'm very happy for 24 you. 25 Q. Unfortunately.</p>
<p style="text-align: right;">Page 211</p> <p>1 G. Hayden 2 know? I got his drawings from Pepe. I have 3 no clue in connection with this under any 4 circumstances what Pepe did, didn't do. His 5 place is in Florida, not even New York. 6 Q. Do you know whether Pepe Calderon 7 copied -- 8 MR. McKEE: Objection. 9 A. He didn't come to me and say, by 10 the way, here are the drawings. He had two 11 drawings here. If they are copies, if he had 12 said that -- 13 MR. ISRAEL: Objection. 14 A. He's objecting. Do you think I 15 would say no problem? I'm glad you copied it, 16 I'm happy for you. It is just not acceptable. 17 Q. If you had known that 18 Mr. Calderon had copied Plaintiff's Exhibit 7, 19 would you have used Mr. Calderon's drawings? 20 MR. ISRAEL: Objection. 21 MR. McKEE: Objection. 22 MR. ISRAEL: Misstates testimony. 23 A. Do I look like I would use them 24 anyway? 25 Q. I'm asking you.</p>	<p style="text-align: right;">Page 213</p> <p>1 G. Hayden 2 A. What's the next question? 3 Q. If you could just focus on my 4 exact questions. Is it possible that 5 Mr. Calderon copied Triarch's drawings? 6 MR. ISRAEL: Objection. 7 MR. McKEE: Objection. 8 A. You're asking my opinion? 9 Q. I'm asking if it is possible? 10 MR. McKEE: Anything is possible. 11 Objection. 12 A. You know, I mean, do you want to 13 ask him that and save yourself all kinds of 14 guesswork? 15 Q. Again I just ask that you listen 16 to the words of my question and specifically 17 answer my question. Is it possible that Pepe 18 Calderon copied Triarch drawings? 19 MR. ISRAEL: Objection. 20 MR. McKEE: Objection. 21 A. I mean, he must have had access 22 to this. Copied, I'm not really sure, but he 23 must have seen those. 24 Q. Mr. Calderon must have based his 25 drawings on Triarch drawings?</p>

54 (Pages 210 to 213)

<p style="text-align: right;">Page 214</p> <p>1 G. Hayden 2 MR. McKEE: Objection. 3 MR. ISRAEL: Objection, misstates 4 testimony. 5 Q. Is that correct? 6 MR. McKEE: You either know or 7 you don't know. 8 MR. MANDEL: Objection, I object 9 now. You're actually coaching the 10 witness. 11 MR. McKEE: Answer this question 12 and we're taking a break. 13 A. Just a minute. 14 MR. McKEE: You're asking him to 15 just go out on a whim. 16 MR. MANDEL: I object. He is 17 clearly interfering with the testimony. 18 MR. McKEE: You're generating a 19 worthless record because you're asking 20 him to guess, because you're asking him 21 things that he couldn't possibly know 22 about. 23 You've asked him this same 24 question a dozen times already. He's 25 given you the same answer over and over</p>	<p style="text-align: right;">Page 216</p> <p>1 G. Hayden 2 last time. Isn't it the case that 3 Mr. Calderon had to have access to Triarch 4 drawings? 5 MR. ISRAEL: Objection. 6 MR. McKEE: Objection. 7 A. You're going to have to ask 8 somebody else what you think. I mean, I quite 9 honestly don't know how much knowledge he has 10 in relation to these drawings as compared to 11 what he did. But all I can say to you is, I 12 am interested in my end of the business, not 13 his, not those people. Just my end, okay? If 14 you come to me with a set of plans and say, do 15 this, do I really care who put your hand on 16 these documents? I couldn't care less how you 17 did that. 18 If the client says we have a 19 designer coming in to you with a set of plans, 20 please take it and make it happen for me, I'll 21 do just that. Where the designer came up with 22 his drawings, how the designer came about 23 them, how much time he spent with the client 24 to prepare this documents? 25 MR. McKEE: We're taking a break.</p>
<p style="text-align: right;">Page 215</p> <p>1 G. Hayden 2 again. And now you're badgering to try 3 to get the answer that you want. Could 4 he possibly have done it? 5 MR. ISRAEL: And you're asking 6 him to give expert testimony, because 7 he wouldn't be answering based upon his 8 own personal knowledge. What he's 9 doing is rendering an opinion on his 10 basis of being an architect. 11 THE WITNESS: That's what I 12 thought. He's doing exactly that. 13 MR. ISRAEL: It is inappropriate. 14 You're a fact witness. 15 THE WITNESS: Right, you want me 16 to interpret somebody else's drawings 17 from an architect's perspective to 18 see -- 19 MR. ISRAEL: No, he's not. 20 MR. MANDEL: No more. I'm going 21 to object to all the back and forth. I 22 let it go on for several minutes now. 23 It is obvious they are obstructing this 24 deposition. 25 Q. I'm going to ask the question one</p>	<p style="text-align: right;">Page 217</p> <p>1 G. Hayden 2 MR. MANDEL: We're going to take 3 a break when I'm done with this 4 question. I don't consent to this 5 break. 6 MR. McKEE: You don't have to. 7 You can get the judge on the line if 8 you object, because I'm taking a break, 9 because otherwise we'll be here all 10 day. We're taking a break out in 11 hallway. 12 MR. MANDEL: So the record is 13 clear, they're getting up. 14 MR. ISRAEL: I'm going downstairs 15 to get a piece of food because I 16 haven't taken my lunch break yet. 17 MR. MANDEL: This break was 18 initiated by Mr. McKee and not by the 19 witness. The witness didn't need a 20 break. Mr. McKee was unhappy with the 21 witness' testimony and therefore has 22 taken him outside to continue coaching 23 him. 24 (Recess from 3:42 p.m. until 25 3:55 p.m.)</p>

55 (Pages 214 to 217)

<p style="text-align: right;">Page 218</p> <p>1 G. Hayden 2 Q. Mr. Hayden, isn't it true that if 3 you had known about Plaintiff's Exhibit 7, you 4 would not have used Mr. Calderon's designs? 5 A. No, I didn't say that. I didn't 6 say that. 7 Q. Even if you had known about 8 Plaintiff's Exhibit 7 you would have gone 9 ahead and used Mr. Calderon's drawings? 10 A. I didn't say that either. 11 Q. Let me ask you this question. If 12 you had known about Plaintiff's Exhibit 7, at 13 the time you were working on the project, 14 would you have used Mr. Calderon's designs? 15 A. I would have discussed it with 16 the client and seen what the client wants to 17 go with. What is it exactly that you're 18 trying to do? You tell me that clearly and 19 I'll make a decision for you in front of 20 everybody. 21 Q. That's what you would have said 22 to the client? 23 A. Absolutely, absolutely. What do 24 you think? Of course. 25 Q. If the client had told you</p>	<p style="text-align: right;">Page 220</p> <p>1 G. Hayden 2 to me, and that designer gave me the drawings. 3 That's all I got and that's all I used. 4 If this conversation to make you 5 comfortable was opened with me, the client and 6 the designer, all the cards are on the table 7 and then he wants me to make a decision, 8 that's a situation that never happened. So I 9 really can't tell you what I would do, or 10 whether I would have proceeded or not. And if 11 I didn't proceed in a matter that is 12 accessible to me or anyone else, there would 13 be no apartment today so -- 14 Q. I'm trying understand your last 15 answer. Is it your testimony that you don't 16 know what you would have done if while you 17 were working on this project you had learned 18 of the existence of Defendants' Exhibit 7, and 19 you had also learned that Defendant's 20 Exhibit 7 was prepared by Triarch and that 21 Triarch had not been paid for they're work? 22 MR. ISRAEL: Objection. 23 MR. MCKEE: Objection. 24 A. I didn't say I wouldn't know what 25 I would have done. I would say that we would</p>
<p style="text-align: right;">Page 219</p> <p>1 G. Hayden 2 Triarch prepared these drawings and we have 3 not paid Triarch, would you have been willing 4 to use Mr. Calderon's design? 5 MR. MCKEE: Objection. 6 A. Triarch, whatever his name is, 7 did the drawings and we didn't pay him? Is 8 that what you just said? 9 Q. If that's what the client had 10 told you, would you have gone ahead and used 11 Mr. Calderon's designs? 12 MR. MCKEE: Objection. 13 MR. ISRAEL: Objection. 14 A. He's saying that the client would 15 tell me that this architectural firm Triarch 16 prepared the drawings. We did not pay Triarch 17 but these drawings were given to you by the 18 designer, would you use the drawings? I'm not 19 seeing a relationship between the designer and 20 Triarch. 21 If the designer gave me the 22 drawings and Triarch didn't get paid, I 23 couldn't care less by either/or, quite 24 honestly. Because you know what? Triarch 25 does not exist in my book, was never mentioned</p>	<p style="text-align: right;">Page 221</p> <p>1 G. Hayden 2 like to discuss that to make a wise decision 3 with the parties involved. 4 Q. What facts would you need to know 5 to make a wise decision? 6 A. I need the client to tell us that 7 these are the drawings that you're working 8 with, and nothing else effects you whatsoever. 9 Nothing else effects you whatsoever. 10 Q. What does that mean, these are 11 the drawings you're working with? 12 A. The designer's drawings. I mean, 13 if you're asking me -- 14 Q. Let me rephrase the question. 15 What facts would you need to know in order to 16 make a decision as to whether you would use 17 Mr. Calderon's drawings? 18 MR. ISRAEL: Objection. 19 MR. MCKEE: Objection. 20 A. I mean, two facts are on the 21 table. The drawings were given to me to be 22 used. That's all I needed to know. 23 Really seriously. As to the 24 existence of these documents, whether they 25 directly impact on my office or not, the</p>

56 (Pages 218 to 221)

<p style="text-align: right;">Page 222</p> <p>1 G. Hayden 2 answer is absolutely not. I couldn't care 3 less about those drawings. I have nothing to 4 do with those drawings, never seen these 5 drawings. Okay? 6 Q. Is it okay for you to use stolen 7 drawings if you don't know that they're 8 stolen? 9 MR. MCKEE: Objection. 10 MR. ISRAEL: Objection. 11 A. Why are you saying they are 12 stolen? What made you say that the papers, 13 drawings are stolen drawings? What gave you 14 that impression? 15 You're making your own stories as 16 we move along because you're a lawyer and I'm 17 not. The truth of the matter is, look, those 18 drawings given to me by a client are what you 19 are now telling me these are stolen drawings 20 from these people. How do you know that? How 21 do I know that and if I did know about it -- 22 Q. Mr. Hayden, I'm going to move to 23 strike that response. 24 A. By all means. 25 Q. I'm going to ask very specific</p>	<p style="text-align: right;">Page 224</p> <p>1 G. Hayden 2 Q. Mr. Hayden, the last question I 3 asked was earlier today, didn't you refer to 4 stolen drawings in your testimony, and you 5 just spoke for about a minute, where 6 90 percent of which had nothing to do with 7 that question. 8 So I'm just going to ask you to 9 focus very carefully on the words of my 10 question and to just answer that question, all 11 right? 12 A. Okay. 13 Q. Would you ever knowingly use 14 stolen drawings? 15 MR. MCKEE: Objection. 16 A. No, absolutely not. Absolutely 17 not. 18 Q. And if you knew that drawings 19 were stolen you would not use them, correct? 20 A. If I knew the drawings were 21 stolen would I -- the whole concept of stolen 22 drawings is bizarre. Do you understand how 23 bizarre that is? I don't know care -- 24 Q. Do you understand the question -- 25 A. I do understand, nobody steals my</p>
<p style="text-align: right;">Page 223</p> <p>1 G. Hayden 2 questions for the rest of the day. And I can 3 guarantee you that we're going to have to 4 continue for more days after this if you don't 5 start to answer my questions. 6 MR. ISRAEL: The questions you're 7 asking are very very problematic. I 8 haven't been saying anything, but I've 9 got to tell you something. You should 10 think very carefully about the 11 questions you're asking because they're 12 improper. 13 Q. Earlier today you referred to 14 stolen drawings, is that correct? 15 MR. MCKEE: No. 16 A. No, I never referred to stolen 17 drawings. I said if somebody steals 18 something, okay, and gives it to me and it is 19 stolen, if you don't know it is stolen, then 20 you'll accept it. If you know it is stolen 21 you may want to raise the issue, how did you 22 end up with it? 23 But why are you doubting the 24 ability of this designer and you keep saying 25 he stole them?</p>	<p style="text-align: right;">Page 225</p> <p>1 G. Hayden 2 drawings from me either. If I find somebody 3 who stole somebody's drawings from me, it 4 would get me even more upset. People stealing 5 my own drawings, then stolen drawings being 6 handed over to the me. It is very upsetting 7 either/or. 8 But now you're sitting around 9 accusing this designer of stealing the 10 drawings and you're telling me I used his -- 11 intentionally used his drawings making me a 12 criminal. That's not a very nice thing to 13 say, is it? 14 Q. Are you listen to the words of my 15 question? 16 A. No, I'm listening, I'm just not 17 liking it. 18 Q. You are listening, but you're 19 refusing to answer my question? 20 MR. ISRAEL: Objection. 21 MR. MCKEE: Objection. 22 A. You're accusation of the designer 23 being a thief and me assisting the thief and 24 being a bigger thief, that's not a very nice 25 thing to say to me at all.</p>

57 (Pages 222 to 225)

<p style="text-align: right;">Page 226</p> <p>1 G. Hayden 2 Q. Did Mr. Calderon steal Triarch's 3 drawings? 4 A. No, of course, not. 5 Q. You are certain? 6 MR. MCKEE: Objection. 7 MR. ISRAEL: Objection. 8 A. I would say, of course not. And 9 if he did, that's his problem, not mine. 10 Okay? 11 Q. Is it possible Mr. Calderon 12 created his drawings without ever seeing 13 Triarch's drawings? 14 A. I'm not really sure how he got 15 some sort of connection to those drawings. 16 Q. I'll ask that question again. Is 17 it possible Mr. Calderon created his drawings 18 without having seen Triarch's drawings? 19 MR. MCKEE: Objection. 20 MR. ISRAEL: Objection. 21 A. You know that answer. So I'm not 22 really sure what he did and how much of a 23 possibility there exists for this designer to 24 produce these documents. Is it possible that 25 those drawings given to him by somebody else</p>	<p style="text-align: right;">Page 228</p> <p>1 G. Hayden 2 can't tell you what he did. I am not in his 3 office. I don't even know the guy. First 4 thing I said to you, I don't know the 5 designer's mental capability, and I'm sure you 6 don't remember that. But you remember about 7 the theft because -- 8 MR. MANDEL: Move to strike. 9 This is all not responsive. 10 A. It's not non responsive. It is 11 responsive. I am not aware of this designer's 12 mental capability in terms of storing images 13 that he had looked at, interpreted on his own 14 down the line, and produced a document similar 15 to that. How do I know? 16 Q. Is it possible that Mr. Calderon 17 created his drawings without ever having seen 18 Triarch's drawings? 19 MR. ISRAEL: Objection. 20 MR. MCKEE: Objection. 21 A. How do you know it is not 22 reversed by the way? Did you ever think of 23 that? 24 Q. One possible scenario, is it your 25 testimony, that one possible scenario is that</p>
<p style="text-align: right;">Page 227</p> <p>1 G. Hayden 2 like the client maybe? Is that possible? Or 3 you don't see that at all? 4 Q. There are similarities between 5 Triarch's drawings and Mr. Calderon's 6 drawings, are there not? 7 A. Yes. 8 Q. Is it your testimony that it is 9 possible that those similarities are a pure 10 coincidence? 11 MR. MCKEE: Objection. 12 MR. ISRAEL: Objection. 13 MR. MCKEE: You can answer it. 14 A. It can be both, but it is 15 possible. 16 Q. It is very unlikely that those 17 similarities between those two sets of 18 drawings are coincidence, correct? 19 MR. ISRAEL: Objection. 20 MR. MCKEE: Objection. 21 A. I mean, it is hard to say really. 22 I mean, what he did, how he -- that type of 23 drawing form, as I said; it could be 24 photographic memory. I mean, if this guy 25 looked at something he could probably -- I</p>	<p style="text-align: right;">Page 229</p> <p>1 G. Hayden 2 Triarch copied Mr. Calderon? 3 A. I just said, did you ever think 4 of the reverse? 5 Q. I understand. But sometimes 6 sarcasm, when you ask questions -- 7 A. It is not sarcasm. 8 Q. -- it doesn't come across on the 9 record. I was just trying to reformulate what 10 I thought was your answer in my own words to 11 see if I understood your answer. 12 A. If two drawings are very very 13 similar, how do you know it is not reversed? 14 Q. Let's assume for a minute that 15 Triarch created its drawings before 16 Mr. Calderon created his drawings. With that 17 assumption in place, is it possible that 18 Mr. Calderon created his drawings without ever 19 having seen Triarch's drawings? 20 MR. ISRAEL: Objection. 21 MR. MCKEE: Objection. 22 A. Or the reverse. You know they 23 are similar. Who did it before? You know 24 what? I wasn't there in either/or. No idea. 25 All I can say to you, and I'm going to say it</p>

58 (Pages 226 to 229)

<p style="text-align: right;">Page 230</p> <p>1 G. Hayden 2 for the last time, I was handed a set of 3 drawings via fax, e-mail, and in person from 4 someone named Pepe. Isn't that clear for you 5 to understand that I did not do anything wrong 6 by accepting a set of drawings from a 7 designer?</p> <p>8 Look, the other thing I want to 9 tell you for sure that you should bare that in 10 mind, I do not accept the work of another 11 architect under any circumstances. And that's 12 with all due respect to the Frank Lloyd 13 Wright, right? And maybe that's an exception. 14 I am not going to sit there and 15 take stuff like this and accept it and make 16 those my own drawings. If it is interior 17 designer and I said that from the beginning, 18 the answer is absolutely, no problem. Another 19 architect can take his drawings some place 20 else.</p> <p>21 And I'm very clear for 27 years. 22 None of that stuff is acceptable in my office, 23 none of it. You're telling me, is it possible 24 that the designer copied and then gave it to 25 you, so therefore you had copied the architect</p>	<p style="text-align: right;">Page 232</p> <p>1 G. Hayden 2 this is a cabinet drawing. Okay, so you may 3 want to put a drawing out. 4 Q. Is there any lighting on this 5 plan page A-11? 6 A. It is not a plan. They are 7 elevations, there is no lighting anywhere. It 8 is called a reflective ceiling plan. For 9 library elevations you have to have reflective 10 ceiling plan or lighting plan. That would 11 have lighting for you. Library elevations is 12 not going to show you lighting. 13 Q. Do you see a reflective ceiling 14 plan on here anywhere? 15 A. It should be here. On the list, 16 electrical. 17 Q. A-2? 18 A. A-2 is good. Probably it would 19 be referring to one part of the space not the 20 whole space, for the lights. 21 Q. Am I correct that earlier it was 22 your testimony that you decided where the 23 lights would be in the library, is that 24 correct? 25 A. Yeah, that's true.</p>
<p style="text-align: right;">Page 231</p> <p>1 G. Hayden 2 indirectly? Well, you know what, I have bad 3 news for you, no, it is not possible. It is 4 absolutely not possible that I would interpret 5 another architect's drawings on my own under 6 my own seal and signature, no, it is not. 7 Very damaging to me and my office and it is 8 not right. 9 Q. Knowing everything you know now, 10 if you can go back in time, is there anything 11 you would do differently on this project? 12 MR. MCKEE: Objection. 13 A. Or anything that I've ever done 14 in my life, the answer is, no. Repeat my 15 whole life the whole time it would be exactly 16 identical. A to Z. 17 Q. Turning your attention to 18 page A-17 of Defendants' Exhibit 7, is there 19 any lighting shown on this page? 20 A. You said lighting, right? 21 Q. Yes. 22 A. Why should I make cabinets, to 23 see lights on cabinet? The cabinet has 24 lights, it would be underneath the shelves. 25 I'm not seeing -- this is not a lighting plan</p>	<p style="text-align: right;">Page 233</p> <p>1 G. Hayden 2 Q. And is there lighting in this 3 plan in the library? 4 A. Yeah there's 1, 2, 3, 4, 5. 5 MR. MCKEE: Library. 6 A. This is the library. It is 7 upside down you have it? You're right, the 8 orientation is different. Is that lights in 9 the library? Yeah, it has 1, 2, 3, 4, 5, 6, 10 7, 8, 9. It is not the same soffits, you see 11 here. 12 Q. The soffits are different? 13 A. Yeah. 14 Q. From A-2 to your drawing? 15 A. Yes, soffits are not the same. 16 Q. How are the soffits different? 17 A. Take my drawings out and find 18 out. It is not the same soffit. So the 19 lighting in this reflective ceiling plan 20 cannot match mine because it is just not the 21 same, right? I mean, obviously not. 22 Why are you referring to that? I 23 never seen these. Give me Pepe's drawings. 24 You see they're not the same. 25 Q. How are the soffits different in</p>

59 (Pages 230 to 233)

<p style="text-align: right;">Page 234</p> <p>1 G. Hayden 2 those two sets of drawings? 3 A. How? 4 Q. So the record is clear, you're 5 comparing your amended plan with Defendant's 6 Exhibit 7. 7 A. The amended plan is the only plan 8 that has the soffits, okay. Now looking at it 9 the right way. 10 Why are you comparing to this? 11 Why don't you compare it to Pepe's drawings. 12 Q. Please just answer the questions, 13 Mr. Hayden. 14 A. Do you want me to get a 15 correlation, a relationship between my 16 drawings and his drawings right here? 17 (Question read.) 18 A. The soffit here, soffit here, the 19 soffit, soffit, there's a soffit. I must say 20 they're very close, except here you have two 21 lights and here you have 1, 2, 3, 4. Here you 22 have two lights, and you have 1, 2, 3, 4, 5. 23 You have 1, 2, 3, 4, 5 lights and you have 24 three lights. So while the soffits could be 25 similar, the layout of the lighting is totally</p>	<p style="text-align: right;">Page 236</p> <p>1 G. Hayden 2 Q. What does the term mean to you? 3 A. It means he who rubber stamps 4 somebody else's drawings or an architect with 5 a set of working drawings on behalf of the 6 designers, like someone like Robert Stern who 7 was a very good architect and does not do work 8 in drawings. And he hires designers, other 9 architects to do the construction documents. 10 And they become the architect of record and he 11 stays the architect. So he cleans his hands 12 from the mess, that's what architect of record 13 does, generally speaking. An architect of the 14 record is someone who is hired just to 15 expedite for the Buildings Department and 16 that's it. 17 Q. Is an architect of record the 18 same thing as a filing architect? 19 A. Well, now you're saying something 20 else. 21 Q. What's a filing architect? 22 A. That's literally someone who just 23 files plans and not stamp them. So what he 24 does, analyzes those drawings from like 25 building codes, zoning point of view, and</p>
<p style="text-align: right;">Page 235</p> <p>1 G. Hayden 2 different. The type of light fixture is also 3 different. 4 You see, this is the square-ish, 5 kind of recessed high hat while this would be 6 the round and the intensity of lighting is 7 different now. This is not going to give you 8 the same intensity of this in terms of what's 9 reflective. So it's not the same. It is not 10 the same. They both have soffits, yes. 11 Plus they have no switches 12 either, so I don't know how you turn them on 13 and off. 14 Q. Let's set aside these two 15 exhibits for now. 16 Were you suppose to be the 17 architect of record on this case? 18 MR. ISRAEL: Objection. 19 MR. McKEE: Objection. 20 A. I'm the only architect, record or 21 no record. I'm the only architect. 22 Q. Have you heard the term architect 23 of record before? 24 A. I don't like the term, but the 25 answer is, yes.</p>	<p style="text-align: right;">Page 237</p> <p>1 G. Hayden 2 takes the documents -- I do all this, by the 3 way, in my office. I don't know if you're 4 aware of it, I told you that before, every 5 single day, so we're fully aware of what these 6 rules and regulations are all about. 7 Q. So am I correct in understanding 8 your testimony that you were not the architect 9 of record in this case but just an architect? 10 MR. McKEE: Objection. 11 A. Architect of the whole thing. 12 I'm responsible, you see my agreement, in 13 designing it, putting it through the Buildings 14 Department, getting you through the building 15 management, making sure you get the permits 16 you need, making sure it gets built. That's 17 an architect. That's what a good architect 18 does. 19 Q. Was there a design architect on 20 this project? 21 A. No, no. 22 Q. Did you do any construction 23 management on this project? 24 A. No. 25 Q. Did you file a third set of plans</p>

60 (Pages 234 to 237)

<p>1 G. Hayden</p> <p>2 with the Departments of Buildings?</p> <p>3 A. Yes, I did.</p> <p>4 MR. MANDEL: Off the record.</p> <p>5 (Discussion off the record.)</p> <p>6 Q. Your answer was, no, you didn't file any other plans?</p> <p>7 A. The answer was, yes.</p> <p>8 Q. What other plans did you file</p> <p>9 with the Department of Buildings?</p> <p>10 A. The same set, just another amendment.</p> <p>11 Q. Why did you file another amendment?</p> <p>12 A. Because there were changes made. Once there are changes made you need to file an amendment. Changes are minor, but they are circled or bubbled. They look old. How you got these hands on these drawings is beyond me, quite honestly. Where did you get all these?</p> <p>13 (Plaintiff's Exhibit 11, a document Bates stamped GH 301 was marked for identification, as of this date.)</p>	<p>Page 238</p> <p>1 G. Hayden</p> <p>2 which appears to be a door to remain?</p> <p>3 A. Existing door to remain, but the door to remain was double-acting, it opened in two directions, that is not -- you can't do that. No, now I have to replace the double-acting door with a single opening, one direction only, so that changed.</p> <p>4 Q. And about here, is there a door in the kitchen?</p> <p>5 A. Yeah, that door needs to be changed from a wood door to a fireproof self-closing because that's what I say.</p> <p>6 Q. And is this a change here?</p> <p>7 A. Yeah, two doors to the dining room are gone. Now the space is open like this, okay? It is open. There's more contrary to what he liked beforehand, every space is subdivided and closed. Now he's saying it is better to leave it open so it looks like a bigger apartment. It is big enough, believe me, with the doors closed or open.</p> <p>8 Q. What was the change here?</p> <p>9 A. The new door has to be 1-1/2 hour</p>
<p>1 G. Hayden</p> <p>2 Q. I have handed you what has been marked as Exhibit 11. Do you recognize that document?</p> <p>3 A. Yes.</p> <p>4 Q. What is it?</p> <p>5 A. It is an amended plan dated November 16th, 2011, the last set that was filed with the Buildings Department to reflect exactly what was built, as built. This is as built after all this stuff. This is what we ended up with. Amazing, huh?</p> <p>6 Q. What are the differences between Plaintiff's Exhibit 11 and the amended set of plans that you filed earlier?</p> <p>7 A. Anything that is bubbled, do you see that? This bubble, that means there is a wall that divided the living room from the dining room. That wall is gone with the exception of where the fireplace is located, which I know that portion, this wall's gone that wall gone, so you can walk around the fireplace as many times as you like and you can do just that.</p> <p>8 Q. Understood. How about here,</p>	<p>Page 239</p> <p>1 G. Hayden</p> <p>2 fireproof, it is a fireproof door. It is instead of regular wood doors it is a fire door.</p> <p>3 Q. What change is made here?</p> <p>4 A. Let's see. Just a smoke detector, carbon monoxide detector should be put in there.</p> <p>5 Q. And for the record, it is in the library?</p> <p>6 A. Yeah, in the library.</p> <p>7 Q. What change is made here in this corner? Is that a change to the door?</p> <p>8 A. I'm thinking. That change to the door or a change on the soffit, no matter what that change is, that area is probably pretty minor. We didn't say much about that. But that's what's built. What's the most part is if the walls are -- if it really existing anymore, you should show these walls as being gone. That's it.</p> <p>9 Q. And what change is made here? Is this a change to the doors?</p> <p>10 A. I think so, yeah, just to show exactly what is built based on the final</p>

61 (Pages 238 to 241)

<p>1 G. Hayden</p> <p>2 inspection of what was actually built versus</p> <p>3 what's proposed. This is it.</p> <p>4 Q. And those are doors to the master</p> <p>5 bathroom, correct?</p> <p>6 A. Yeah, yeah.</p> <p>7 Q. And here there was another change</p> <p>8 to a fire door and this is a door to hallway</p> <p>9 number 2?</p> <p>10 A. Yeah.</p> <p>11 Q. Was any designer involved in</p> <p>12 making any of the changes contained on</p> <p>13 Plaintiff's Exhibit 11?</p> <p>14 A. No, not anymore. No, the</p> <p>15 designer was gone a long time ago. This was</p> <p>16 done very recently. As I said, the designer,</p> <p>17 once he handed me that set of drawings, he was</p> <p>18 gone for good. So beyond that point it is</p> <p>19 really just me. That's it.</p> <p>20 Q. Were the changes that are</p> <p>21 described on Plaintiff's Exhibit 11 made</p> <p>22 during the construction phase of the project?</p> <p>23 A. At the end, towards the very very</p> <p>24 end while, in fact, you need to make sure that</p> <p>25 your plan is not reflected as built. I made a</p>	<p>Page 242</p> <p>1 G. Hayden</p> <p>2 paperwork reflecting plumbing changes, number</p> <p>3 of fixtures that have been changed,</p> <p>4 description of what's changed on paperwork,</p> <p>5 format of drawings themselves, and this is it.</p> <p>6 Q. Were you terminated at any point</p> <p>7 by the client on this project?</p> <p>8 A. Or any other project in my life,</p> <p>9 the answer is no.</p> <p>10 Q. You've never ever been terminated</p> <p>11 from any project?</p> <p>12 A. No, never.</p> <p>13 Q. Was there any point in time when</p> <p>14 you sort of stopped working on the project on</p> <p>15 an active basis?</p> <p>16 A. No, no, not at all.</p> <p>17 Q. You said you were not involved in</p> <p>18 construction management, is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. So once they began working on</p> <p>21 construction, did you continue working on a</p> <p>22 regular basis or was it sort of an inactive</p> <p>23 period of time?</p> <p>24 MR. MCKEE: Project.</p> <p>25 A. Project.</p>
<p>1 G. Hayden</p> <p>2 decision that I need to look at it just to the</p> <p>3 make sure that nothing changed. And if there</p> <p>4 is a change then I would file an amendment.</p> <p>5 The reason why you would do that</p> <p>6 is because you need to close the job at the</p> <p>7 end, it has to be closed.</p> <p>8 Any time you file an application</p> <p>9 you have to close it. You are the only one</p> <p>10 that can close it. But you're not going to</p> <p>11 close it until it matches. If you have a</p> <p>12 document like that reflecting exactly what's</p> <p>13 built, then you sign off on the job. It is</p> <p>14 closed.</p> <p>15 Q. Did you have to go back to the</p> <p>16 co-op board to approve any of these things?</p> <p>17 A. Just send them copies.</p> <p>18 Q. And other than the original set</p> <p>19 of plans that you filed with the Department of</p> <p>20 Buildings, your amended set of plans that you</p> <p>21 filed with the Department of Buildings, and</p> <p>22 this document Plaintiff's Exhibit 11, did you</p> <p>23 file any other documents with the Department</p> <p>24 of Buildings?</p> <p>25 A. I would say paperwork like a PA,</p>	<p>Page 243</p> <p>1 G. Hayden</p> <p>2 Q. Project.</p> <p>3 A. It is not that. It is just</p> <p>4 construction management making you the</p> <p>5 contractor and then you had to build at the</p> <p>6 same time. While site visits during</p> <p>7 construction the architects do. So I don't</p> <p>8 live very far, so during sometimes going to</p> <p>9 the office on the west side and I'm on the</p> <p>10 east side, pass by this building all the time.</p> <p>11 So periodically, you know, I thought it would</p> <p>12 be nice to look.</p> <p>13 So this only happened twice or</p> <p>14 three times during construction and that's it.</p> <p>15 I didn't go there every day. It is not called</p> <p>16 for anyway.</p> <p>17 Q. Were you preparing any drawings</p> <p>18 during the construction phase of the project?</p> <p>19 A. No, no, just to see the extent of</p> <p>20 the progress, to see what it actually does</p> <p>21 look like, make sure this is like -- it is not</p> <p>22 too late, it can be remedied maybe, a wall can</p> <p>23 move over. Just look, it doesn't hurt.</p> <p>24 Q. Did you prepare any drawings</p> <p>25 between your amended set of drawings, which I</p>

<p style="text-align: right;">Page 246</p> <p>1 G. Hayden 2 believe are Defendant's Exhibit 8, and your 3 second amended set of drawings which are 4 Plaintiff's Exhibit 11?</p> <p>5 A. No, no, not at all, no. 6 I have to take it back. I did 7 draw up library shelving units and sent it to 8 Italy so they can make the bookcases based on 9 the client's request. He asked me to go and 10 measure the library walls and give us the 11 plans in centimeters instead of feet and 12 inches. It is not easy, but I can do it. So 13 I said, fine.</p> <p>14 So we went back and the walls 15 were like partially up and framed whatever, we 16 took measurements, and put the shelving units 17 together, and just sent it to Garry, I guess, 18 who sent it to Italy to make the bookcases in 19 Italy. I did that, yeah. But that's the only 20 document that wouldn't have been included in 21 the construction of documents. Just to show 22 the library layout. So that's it.</p> <p>23 Q. Throughout the day today you've 24 testified about a lot of comments and ideas 25 that you received from Mr. Voronchenko over</p>	<p style="text-align: right;">Page 248</p> <p>1 G. Hayden 2 Q. Can we go back to Exhibit 10 3 again? 4 I am showing you what has been 5 marked as Plaintiff's Exhibit 10. I'm 6 turning to the third page of that document. 7 Am I correct in understanding that that's a 8 picture -- withdrawn. What is this page?</p> <p>9 A. It is a rendering, it is a 3-D 10 modeling or 3-D rendering of the foyer and the 11 living room in the background.</p> <p>12 Q. Did you use this in any way in 13 preparing --</p> <p>14 A. You asked me that before and I 15 said, no.</p> <p>16 Q. Are the preparation of renderings 17 a typical part of your process when you 18 undertake a gut renovation?</p> <p>19 A. I'd like the say yes to that, 20 yeah. I'd like to say yes to that. You can 21 ask me why don't you do it for your client? 22 I'd like to say yes, I like to do those.</p> <p>23 But you know, is it necessary? 24 Or with an elevation to the job, just as well 25 as a rendering would do the job. It depends</p>
<p style="text-align: right;">Page 247</p> <p>1 G. Hayden 2 the course of the project. Other than what 3 you already testified to here today, did 4 Mr. Voronchenko have any other comments or 5 criticism of the project?</p> <p>6 MR. ISRAEL: Objection.</p> <p>7 A. And if he did, he wouldn't tell 8 me. The answer is, no, other than what he 9 said from the beginning, the initial meetings 10 which is like I said, one or two. Never spoke 11 to me on the phone. He certainly didn't call 12 me from Russia, so I don't know.</p> <p>13 Q. Did Mr. Braderman have any 14 comments or criticisms of the project, other 15 than what you've already testified to here 16 today?</p> <p>17 MR. ISRAEL: Objection.</p> <p>18 A. Not to my knowledge, no, not at 19 all.</p> <p>20 Q. Did anyone else associated with 21 Medallion have any comments or criticisms on 22 the project that you haven't already testified 23 here to today?</p> <p>24 MR. ISRAEL: Objection.</p> <p>25 A. Not to my knowledge, not at all.</p>	<p style="text-align: right;">Page 249</p> <p>1 G. Hayden 2 on the client. If the client doesn't see it, 3 doesn't understand elevation, then it is fine.</p> <p>4 Q. So in the past you have prepared 5 3-D renderings?</p> <p>6 A. I've prepared lots of those, 7 sure.</p> <p>8 Q. You do those in-house or do you 9 have a vendor?</p> <p>10 A. We do it right here in the 11 office, right here.</p> <p>12 Q. Are they very time consuming?</p> <p>13 A. Well, they take memory of the 14 computer, so computer memory starts to slow 15 down on you. So if you can do it quickly, 16 yeah, you can do it quickly, yeah.</p> <p>17 Q. Would you charge extra for doing 18 renderings?</p> <p>19 A. No, not at all. I just want you 20 to understand what you're getting from me. 21 That's a method of being in the clear with the 22 client that I showed it to you and you said 23 fine, okay.</p> <p>24 Q. I'm going to ask you, why don't 25 you do renderings for every project?</p>

63 (Pages 246 to 249)

<p style="text-align: right;">Page 250</p> <p>1 G. Hayden 2 A. I do and I don't. It depends. 3 The clients are -- well, I don't know, I mean, 4 I do have renderings if you want to see them, 5 I'll send them to you. 6 Q. That's all right. You didn't do 7 any renderings for this project? 8 A. No, no, it is not necessary. The 9 elevations show all the -- specifically for 10 this kind of interior project you really don't 11 need that. That's trying to sell you a 12 product. This is trying to sell your 13 business. My business is already sold. 14 Q. Other than the renderings in 15 Plaintiff's Exhibit 10, did you receive any 16 other renderings on this project? 17 A. No, no, no. This is the book 18 that I received, no. 19 Q. I am showing you what has been 20 marked as Plaintiff's Exhibit 4. Have you 21 ever seen this document before? 22 A. Judging from the cover sheet, no, 23 but can I open it? 24 Q. Please do. 25 A. Okay. No, I never saw that.</p>	<p style="text-align: right;">Page 252</p> <p>1 G. Hayden 2 Q. As-built? 3 A. Close, very close, yeah. 4 Q. Turning your attention to the 5 next page which are renderings of -- 6 A. The bedroom. 7 Q. -- the bedroom, do these 8 renderings bear any resemblance to the master 9 bedroom as built? 10 MR. ISRAEL: Objection. 11 A. Quite honestly, a lot less than 12 yes. I would say to anyone, if you have the 13 floor plan and you have the elevations, you 14 can create a rendering that reflects the plans 15 and the elevation. If they are contradictory 16 to one another, then you're not doing it. 17 Bottom line is, is this horrible light fixture 18 is certainly not there. I mean, the drapes 19 are not there. I mean, I don't know. If you 20 ever want to do this, I should have made that 21 very clear, because this is not good. The 22 answer to that is, I have not seen the bedroom 23 with all this junk in it like that, in this so 24 called Art Deco style, because they are not 25 there. I didn't see that on the bedroom.</p>
<p style="text-align: right;">Page 251</p> <p>1 G. Hayden 2 Q. All right. 3 A. Never saw that. I can tell you 4 very quickly no, I never saw that. No, I 5 never saw that. Kind of interesting though. 6 Thank you very much. 7 Q. You've seen the final library, 8 correct? The as-built library? 9 MR. MCKEE: The question is, have 10 you seen the completed library? 11 A. Yes, yes, I have. 12 Q. I'm turning your attention to 13 the, I believe, the back of the fourth and the 14 front of the fifth pages in Defendant's 15 Exhibit 4. Do those three dimensional 16 renderings bear any resemblance to the library 17 as built? 18 A. Can I ask you where did these 19 come from or not necessarily? 20 Q. Sure, they came from Triarch. 21 A. Oh, they did. 22 MR. MCKEE: Answer the question 23 as is posed, if you can. 24 A. Do they have similarity to what 25 we have in the field, is what you're asking?</p>	<p style="text-align: right;">Page 253</p> <p>1 G. Hayden 2 But I can tell you these doors 3 are not the same either. Definitely not the 4 same, the chandelier here is certainly not the 5 same. So I'm not understanding the connection 6 to rendering and the final product. 7 Q. Are there any similarities? 8 A. No, no, no, not at all. 9 Q. Now I'm showing you renderings of 10 a potential foyer. Are there any similarities 11 between these renderings and the foyer as 12 built? 13 A. Day and night, not even close. 14 Not even close. 15 Q. Are there any similarities 16 whatsoever? 17 A. No, not at all. 18 Q. And is this the living room? 19 A. Your guess is as good as mine. 20 Yeah, you're looking at the wall where the TV 21 is, but then I'm not really seeing that. 22 Number 1, we never have wall consoles like 23 that. Number 2, we never broke it down in 24 this kind of orientation where you have the 25 upper part, lower part identical, and the</p>

64 (Pages 250 to 253)

<p style="text-align: right;">Page 254</p> <p>1 G. Hayden 2 center part is bigger. The answer is not 3 really, not even close. 4 Q. How about the perspective of the 5 living room, any similarity there? 6 A. No, the library is pretty close, 7 I can tell you that much, yeah. The bedroom 8 is not even close. I think it looks like a 9 lobby in the office building. No. 10 Q. Do you know who Tempora Mobili 11 is, T E M P O R A, M O B I L I ? 12 A. I ran into those guys at the 13 building once. They are from Italy, they are 14 the ones that make the panels, I assume. 15 Mobili stands for obviously furniture. 16 Q. Have you had any communications 17 with Tempora Mobili? 18 A. No, I did not. 19 Q. I've asked you questions about 20 Triarch, Mr. Calderon, Tempora Mobili, 21 Libracon, and Dragan earlier today. Other 22 than those five persons or entities, did you 23 have communications with any other designers 24 or design professionals or architects or 25 manufacturers over the course of this project?</p>	<p style="text-align: right;">Page 256</p> <p>1 G. Hayden 2 A. What do you mean? I'm the 3 architect, I just said that to you. 4 Q. Withdrawn. Was there an 5 expeditor hired on this project? 6 A. I told you, Cecilia worked in my 7 office and she does that every single day. We 8 do a lot of filing, not just apartments. 9 Q. Other than Cecilia, did anyone do 10 any expediting work on the project? 11 A. No, no, that's it. 12 Q. Do any engineers do any work on 13 this project? 14 A. No. 15 Q. When you received Mr. Calderon's 16 designs, did you make any inquiry into whether 17 his designs have been copied from any other 18 person? 19 MR. ISRAEL: Objection. 20 MR. McKEE: Objection. 21 A. You think I should have done 22 that? 23 MR. McKEE: Just yes or no. 24 A. The answer is no, no. Of course 25 not, not even a quote, no, no.</p>
<p style="text-align: right;">Page 255</p> <p>1 G. Hayden 2 MR. ISRAEL: Objection. 3 MR. McKEE: Objection to form. 4 A. Not really. Probably got some 5 contractors that work with the general 6 contractor that may have spoken to me once or 7 twice, like the plumbers, for instance. 8 That's it, really. 9 Q. You haven't talked to any other 10 designers or architects about this project? 11 A. No, ever, not one. It is a 12 miracle that I allowed this Pepe to come to my 13 office altogether. But I did, I like his 14 work. I thought he was good, that's it. 15 Q. Why was it a miracle you allowed 16 him to come to your office? 17 A. He could send it by mail. 18 Q. But am I correct that earlier you 19 testified you're fine with working with 20 interior designers, correct? 21 A. Yes. 22 Q. And am I correct that you were 23 the expeditor on this project? 24 MR. McKEE: Objection. 25 MR. ISRAEL: Objection.</p>	<p style="text-align: right;">Page 257</p> <p>1 G. Hayden 2 Q. Did anyone ever object to any of 3 your invoices on this project? 4 A. No. 5 Q. Am I correct that you testified 6 that you received approximately \$45,000 over 7 the course of the project? 8 A. That's just about right. 9 Q. And how much of that payment was 10 attributed to your preparation of the amended 11 plans, not the 2011 plans but the -- 12 A. Probably like 9, 10. 13 Q. 9- or 10,000? 14 A. Yeah, yeah. 15 Q. How much of your fee was 16 attributable to your preparation of the 2011 17 plan? 18 A. The full 35,000, whatever the 19 number that we agreed in the agreement, 20 whatever the initial agreement was paid in 21 full. 22 Q. I'm talking about how much you 23 know, how you did the original set of plans, 24 then you did a first set of amended plans, and 25 then in 2011 you filed as-built plans. How</p>

65 (Pages 254 to 257)

<p style="text-align: right;">Page 258</p> <p>1 G. Hayden 2 much were you paid for preparing and filing 3 the as-built plans? 4 A. Nothing. It's because of the 5 commitment that we made to you that you'll 6 have a complete set of documents, that's it. 7 Q. That was a service that you 8 performed as part of the overall fee of the 9 entire project? 10 A. Absolutely. Whether you get paid 11 upfront or down the road, it doesn't matter. 12 You need to do that. 13 Q. Did Medallion pay everything that 14 was owed to you on this projects? 15 A. Yes, definitely. 16 Q. And am I correct that you 17 testified earlier that all of Medallion's 18 payments were made in a timely manner? 19 A. Absolutely. 20 Q. Are you aware of Medallion not 21 making payments to any other person or entity 22 involved in this project? 23 MR. McKEE: Objection. 24 A. Not at all. 25 Q. Were the contractors paid?</p>	<p style="text-align: right;">Page 260</p> <p>1 G. Hayden 2 those drawings on his own, and I got the okay 3 to proceed. 4 So he didn't really sit with me 5 and say, maybe we should move this wall to 6 this side, and move this to this side like 7 they normally do. I don't know if he knows 8 how to read drawings. I don't know what he 9 knows. He trusts you as a professional and 10 that's all there is to it, okay. 11 Q. Did you say Mr. Voronchenko 12 doesn't know how to read drawings? 13 A. I didn't say that. I said I 14 don't know if he does know how to read them or 15 if he wants to get involved in that degree. 16 He hires people to do that work and he walks 17 away or he goes back to Russia or he goes and 18 does other work, that's what he does. 19 Q. The amended set of plans that you 20 filed, the amended ones, who did you show 21 those plans to? 22 A. The amended set of plans, they 23 were sent over the building manager to Garry 24 Braderman, to everybody. Everybody has that 25 set of plans as the amended set of documents.</p>
<p style="text-align: right;">Page 259</p> <p>1 G. Hayden 2 A. Well, I'm sure that hopefully 3 they are. I mean, they did the job. I'm not 4 sure if they are paid or not, but why wouldn't 5 they be? 6 Q. Do you know whether they were 7 paid or not? 8 A. No, I don't. 9 Q. You don't know how much they were 10 paid, correct? 11 A. No, I don't. If they did the job 12 right. 13 Q. With respect to all the drawings 14 that you prepared for this project, you 15 obviously showed them to Mr. Voronchenko, 16 correct? 17 A. Seriously? 18 MR. McKEE: Objection. 19 A. Seriously, I don't think he saw 20 them with me. But definitely looked at them 21 on his own. They were sent over to Garry 22 Braderman and they have meetings in the house, 23 in the apartment and -- he did not sit down 24 with me as normally clients would do and go 25 over every single line. He just went over</p>	<p style="text-align: right;">Page 261</p> <p>1 G. Hayden 2 That's what you're supposed to do. 3 Q. You obviously gave them to the 4 Department of Buildings? 5 A. Of course. 6 Q. And have you ever shown them to 7 any other clients? 8 A. For what? 9 MR. McKEE: What do you mean? 10 Q. Have you ever shown the drawings 11 to any other clients? 12 A. No, no, clients don't know, no. 13 Q. Have you ever shown them to any 14 other architects? 15 A. No, no, that's all I need. No, 16 of course not, no. 17 Q. You've never used them in any 18 form as a sample of your work to show to a 19 perspective client or someone for marketing 20 purposes? 21 A. This project is not even in my 22 portfolio, if you want the truth. That's how 23 small it is. It is not even -- just the 24 address is good, okay? No. 25 Q. Why did you decide not to include</p>

66 (Pages 258 to 261)

<p style="text-align: right;">Page 262</p> <p>1 G. Hayden 2 it in your portfolio? 3 A. Because I don't do interior 4 decorating like this. Essentially it came out 5 to be, okay? I don't live on renovating 6 apartments. I combine apartments, yes. I put 7 two apartments together, two floors together. 8 I do that all the time. But we really don't 9 get involved with interior renovation to that 10 degree. It is not what I do. 11 Q. This project was primarily an 12 interior decorating project as opposed to an 13 architectural project? 14 A. No, it is not. This started as 15 being the gutting of an existing apartment, 16 services are very diversified. You know, you 17 still need building management approval, you 18 still need the Building Department's approval, 19 and you still need some sort of contract to do 20 the bids. If you do this for a living, good 21 for you. I mean, I don't get that many 22 apartments gutted. It is not what the office 23 is known for. If I can do that, of course I 24 can do that. Okay. 25 MR. MANDEL: I would like to mark</p>	<p style="text-align: right;">Page 264</p> <p>1 G. Hayden 2 Q. And do you recognize the 3 handwriting on this document? 4 A. I do not. This is silly. 5 Q. Is it possible this is a Triarch 6 document? 7 A. Ask him. If the project is 8 60th Street below, he's got something else 9 happening. 10 Q. Turning your attention to 11 Plaintiff's Exhibit 13, which has been Bates 12 stamped -- 13 A. This is mine. 14 Q. -- GH 0344, it is a single page 15 document, do you recognize this document, sir? 16 A. Yeah, you know why? Because of 17 the disclaimer right there. That disclaimer 18 is ours. 19 Q. What is this document? 20 A. This is based on field 21 reinspection and taking notes, as I said. 22 Every single page, every single wall was 23 measured, measured, and remeasured. This 24 gives you like ceiling height, 9-foot 9-1/2. 25 This was done by Carly who worked in our</p>
<p style="text-align: right;">Page 263</p> <p>1 G. Hayden 2 these drawings. 3 (Plaintiff's Exhibit 12 through 4 15, architectural drawings were marked 5 for identification, as of this date.) 6 MR. MANDEL: Off the record. 7 (Discussion off the record.) 8 (Recess until 4:44 p.m. until 9 5:00 p.m.) 10 Q. I am handing you what has been 11 marked as Plaintiff's Exhibit 1. It is a 12 single page drawing that's full size GH 0086. 13 And I just ask for you to please tell me what 14 that document is, sir? 15 A. No, definitely not mine. We 16 didn't do that. We never did the whole -- 17 what do you think, up in the sky, that's very 18 stupid, this drawing never came from my 19 office. I have no idea what this is. Do you 20 understand that? 21 Q. Crystal clear. 22 A. Thank you. 23 Q. Am I correct you don't know where 24 this document came from? 25 A. I just said that.</p>	<p style="text-align: right;">Page 265</p> <p>1 G. Hayden 2 office for almost three years as well. That's 3 her handwriting. That's a section through a 4 detailed soffit that she wanted to put in. 5 Some dimensions that she took, and she put on 6 the drawings so it can reflect that in the 7 working drawings. 8 It is interpretation of what's 9 there. Field measurements, that's what we do 10 for a living, and that's definitely mine, it's 11 got my name here too. I forgot about that. 12 Yeah, that's good. That's our interpretation 13 of what is existing before we started the 14 construction. 15 Q. Have you asked all the people who 16 worked for you or any of the people who worked 17 for you whether they had any communications 18 with Triarch at all on this project? 19 A. You got to be kidding. 20 Absolutely not even enter their minds to talk 21 to another architect. No, I never did and 22 never will. It is not going to happen. You 23 can do that all you want, I'll give you all 24 names. You can do that. 25 Q. I am now handing you what has</p>

67 (Pages 262 to 265)

Page 266		Page 268
1	G. Hayden	1 G. Hayden
2	been marked Plaintiff's Exhibit 15. It's a	2 A. I told you, he only showed up in
3	single page drawing that's been Bates stamped	3 my office once. So this is the date that he
4	GH 0083. Do you recognize this document?	4 showed up in my office. That would be the one
5	A. This is Frank Williams this is	5 and only time that he came to my office. And
6	the architect, this is the building's actual	6 if he had set up with Monica, I guess that's
7	design drawings that built the buildings, not	7 good. Wednesday, July 15th. He didn't come
8	the apartment. You can see the concrete	8 at 9 o'clock, I know he came in the afternoon.
9	columns, you can see the interpretation of the	9 Q. Does July 15th, 2009, sound like
10	architect when they designed concrete	10 approximately the period of time in which you
11	buildings and the risers, and the stairwell	11 met him?
12	and what have you. This is an architect's	12 A. I'd like to keep that in mind
13	drawing.	13 because I only met him once, so that has to
14	Q. For what purpose did you use this	14 be. Certainly not the morning, I can tell you
15	drawing?	15 that much. He didn't come in the morning. He
16	A. I didn't use it. I just looked	16 came in the afternoon, around, 2, 3, something
17	at it. Just to make sure we're dealing with	17 like that.
18	the same plate, that's the plate of the	18 Q. Does the name Catherine Garcia
19	building, you know what I'm saying? We didn't	19 sound familiar to you?
20	use it, just looked at.	20 A. Yes; as a matter of fact that you
21	Q. I am now handing you what has	21 mention it, I saw her name down. She's the
22	been marked Plaintiff's Exhibit 14 which is a	22 one that came with Pepe, I think so. I think
23	single page drawing.	23 so. She kept talking to Monica not me. Only
24	A. You already showed me that.	24 spoke to Monica.
25	Q. It's Bates stamped GH 0137.	25 (Plaintiff's Exhibit 17, an
Page 267		Page 269
1	G. Hayden	1 G. Hayden
2	A. It is about the same as the first	2 e-mail dated October 20, 2009 from
3	one you showed me. It is just a copy, it is	3 Catherine Garcia, was marked for
4	not just a copy. It is very close. Yes, it	4 identification, as of this date.)
5	is very close.	5 Q. I am handing you what is marked
6	Q. Are you saying it is very similar	6 as Plaintiff's Exhibit 17. It is an
7	to Plaintiff's Exhibit 13?	7 October 20th, 2009, e-mail from Catherine
8	A. You can see from here.	8 Garcia to you.
9	Q. I have no further questions on	9 And I would turn your attention
10	those exhibits. Thank you very much.	10 to the middle of the second page where there
11	A. Thank you.	11 is an e-mail that says, this e-mail is from
12	Q. I will have this marked as	12 you to Ms. Garcia or perhaps from Monica to
13	Plaintiff's Exhibit 16.	13 Ms. Garcia, but it is from your e-mail
14	(Plaintiff's Exhibit 16, an	14 address. It says, "Hello, Catherine.
15	e-mail dated July 7, 2009 from Garry	15 Remember the dining room DWG came through but
16	Braderman, was marked for	16 that was the only DWG. I'm unsure if you sent
17	identification, as of this date.)	17 the rest or not Monica?"
18	Q. Mr. Hayden, I am handing you	18 Does July 13th, 2009, sound like
19	Plaintiff's Exhibit 16. It is a July 7th,	19 approximately the period of time in which you
20	2009 e-mail from Garry Braderman to you. Do	20 were receiving drawings from Mr. Calderon?
21	you recognize this document?	21 A. Well, it is pretty obvious the
22	A. It is addressed to me. Did I	22 drawings that he gave me have dates. The
23	ever see it? Maybe, but you know --	23 drawings that I gave you copies of have dates.
24	Q. Did you meet with Mr. Calderon	24 It has the correspondence to that. Do I know
25	July 15th, 2009?	25 the exact date, not really, but you can see

<p style="text-align: right;">Page 270</p> <p>1 G. Hayden 2 them, you know, if that's what you're looking 3 for. If it is the e-mail that was sent to 4 Monica, that's obviously true.</p> <p>5 Q. Sitting here today, do you have 6 any reason to believe that July 2009 wasn't 7 the period of time in which you were receiving 8 the drawings from Mr. Calderon?</p> <p>9 A. No, no, probably not, no. 10 (Plaintiff's Exhibit 18, an 11 e-mail from Dragan Tatalovic, was 12 marked for identification, as of this 13 date.)</p> <p>14 Q. I am handing you what is being 15 marked as Plaintiff's Exhibit 18. It is an 16 e-mail from Dragan Tatalovic to you. And 17 there are two pages of drawings that are 18 attached to the e-mail.</p> <p>19 Do you recognize those drawings 20 Mr. Hayden?</p> <p>21 A. Seriously, no. No, I've never 22 seen those before.</p> <p>23 Q. Are those drawings that were 24 prepared by Tatalovic?</p> <p>25 A. That could be the shop drawings,</p>	<p style="text-align: right;">Page 272</p> <p>1 G. Hayden 2 series of drawings that begins on Bates GH 3 0017 and continues through GH 0030. Do you 4 recognize this document?</p> <p>5 A. Yes, I do.</p> <p>6 Q. What this?</p> <p>7 A. Field measurements that we, Carly 8 and myself did this, this is her handwriting. 9 She worked for me for three years. We 10 measured this apartment completely. Every 11 wall, every room, every angle, and every 12 corner. And that's what you're looking at. 13 You're looking at field measurements done by 14 hand and the tape stretched and reflected on 15 that. That's what created the construction 16 drawings for the apartment.</p> <p>17 Q. Did you do these on Labor Day 18 day?</p> <p>19 A. I have no idea. We did it 20 whenever we did it. Carly worked on Labor 21 Day. I worked anyway.</p> <p>22 Q. What year might that have been?</p> <p>23 A. I don't know, ask her. I don't 24 know whatever time we decided to go, we went. 25 I'm kind of surprised it is Labor Day, unless</p>
<p style="text-align: right;">Page 271</p> <p>1 G. Hayden 2 yeah, that could be the shop drawings but they 3 are not directly related to my work. I mean, 4 they could be the shop drawings from the 5 fabrication of the panels that I have not 6 really said much about.</p> <p>7 (Plaintiff's Exhibit 19, a series 8 of drawings Bates stamped GH 0017 9 through GH 0030, were marked for 10 identification, as of this date.)</p> <p>11 A. That's pretty good though.</p> <p>12 Before the fabrication of any product you need 13 shop drawings. Seriously, this is not a major 14 change of the elevation that I drew except 15 these three dimensional drawings. Everything 16 else stays the same. Consequently, do I 17 recall if that's a full shop drawing, probably 18 not. Did I ever have comments on this, no, I 19 did not.</p> <p>20 Q. I'm handing you what is being 21 marked as Plaintiff's Exhibit 19.</p> <p>22 A. That's mine, you see.</p> <p>23 MR. MCKEE: Wait for the 24 question.</p> <p>25 Q. Plaintiff's Exhibit 19 is a</p>	<p style="text-align: right;">Page 273</p> <p>1 G. Hayden 2 she put the note down on Labor Day to remember 3 that's in the near future. I don't know why 4 she put that down Labor Day. I didn't see 5 that. Quite honestly, I don't think we went 6 up there on Labor Day, I don't think so, no, I 7 don't.</p> <p>8 Q. You were retained in March 2008, 9 correct?</p> <p>10 A. You have the contract.</p> <p>11 MR. MCKEE: We will stipulate it 12 is March.</p> <p>13 Q. Would you have done these actual 14 measurements shortly after you were retained?</p> <p>15 A. Yeah, yeah, pretty much.</p> <p>16 Q. You wouldn't have waited six 17 months, right?</p> <p>18 A. No, no. We don't do that. You 19 just don't wait six months to go measure, 20 that's stupid. You see, this is my 21 handwriting right there. This is like squares 22 so we can draw it to scale and when --</p> <p>23 Q. I am handing you what has been 24 marked as Plaintiff's Exhibit 20.</p> <p>25 (Plaintiff's Exhibit 20,</p>

69 (Pages 270 to 273)

<p style="text-align: right;">Page 274</p> <p>1 G. Hayden 2 documents Bates stamped GH 031 through 3 GH 032, was marked for identification, 4 as of this date.) 5 A. It is a continuation. 6 Q. For the record, Plaintiff's 7 Exhibit 20 begins on Bates number page GH 031 8 and continues through page 032. 9 Am I correct these are also 10 measurements of the size of the existing space 11 before the renovation began? 12 A. Field measurements before we 13 touched the building, confirm every angle, 14 every wall, make sure this is what you have in 15 the building. 16 (Plaintiff's Exhibit 21, 17 documents Bates stamped GH 033 through 18 GH 035, was marked for identification, 19 as of this date.) 20 Q. I turn your attention to what has 21 been marked as Plaintiff's Exhibit 21. This 22 begins on page number GH 033 and continues 23 through page 035. Do you recognize this 24 document? 25 A. Yes, I do.</p>	<p style="text-align: right;">Page 276</p> <p>1 G. Hayden 2 A. Of course, of course. This is 3 all do you. See, the field measurements we 4 mentioned we made that plan with all the 5 dimensions on it. Given the fact that we have 6 the plans from the building architect who 7 actually designed the building, you can't rely 8 on that either because it is never the exact. 9 You think the building looks exactly like it, 10 but it never does. The only way you know that 11 is with these things here, that gives you the 12 plan. 13 So when you go get field 14 measurements by hand, and you make comments 15 like that, you know for a fact you got the 16 story right. That's what we try to do for 17 this client essentially. Not just him, 18 everybody. 19 Q. Is it your practice to keep these 20 kinds of notes that are in Exhibit 21? 21 A. No, I have a folder and every 22 time we do a set -- well, look, field 23 measurements are really essential not to lose, 24 because the only way you can find out if you 25 draw it correctly or not is to look in your</p>
<p style="text-align: right;">Page 275</p> <p>1 G. Hayden 2 Q. What is this document? 3 A. Notes taken by Carly, probably 4 based on trying to make the set plans 5 complete, the drawings. Or she went back on 6 the job site to find things that did not line 7 up correctly. 8 So just checking the ceiling 9 heights before she goes back, how far the 10 paneling needs to come out, city windows -- to 11 fit those criteria whether we're going to 12 install city windows or not. If we're going 13 to put city windows in front of the windows, 14 we need to get more details to get the window 15 touched to the wall and find the existing 16 windows. 17 Make the story short, these are 18 notes that would suggest an attempt to start 19 the construction documents, make sure 20 everything that you're looking for is measured 21 and is in your hands so you can do the plans. 22 That's what it is. 23 Q. At this time, was the plan to 24 prepare construction drawings before you 25 received any work from any designer?</p>	<p style="text-align: right;">Page 277</p> <p>1 G. Hayden 2 field measurements or go back and measure. 3 Who wants to do that? So keep it. Carly, 4 that's Carly that's not me. She likes to keep 5 her notes, fine. She put them in a folder and 6 they stayed there. If she didn't, they 7 wouldn't be there. 8 Q. It is not your office's practice 9 to keep these kinds of documents? 10 A. I don't like to throw anything 11 out, quite honestly. That's because we didn't 12 like to throw out anything. We don't. We 13 like to keep it. At least for a while. 14 Q. My question is not is it your 15 practice to retain them once they have been 16 created. My question is, is it your practice 17 to create sets of notes like this? 18 A. That's Carly. She was that type 19 of personality, okay. It depends. Right now 20 I don't think the current people working with 21 me are like her, I don't think so. But we'll 22 see. 23 Q. These aren't your notes, these 24 are Carly's? 25 A. These are Carly's, yeah.</p>

70 (Pages 274 to 277)

<p style="text-align: right;">Page 278</p> <p>1 G. Hayden 2 (Plaintiff's Exhibit 22, set of 3 drawings, was marked for 4 identification, as of this date.) 5 Q. I am handing you what has been 6 marked as Plaintiff's Exhibit 22. It is a set 7 of drawings and possibly renderings that 8 begins on Bates number page GH 0087 through 9 page number 0093 consecutively. 10 Do you recognize this document? 11 A. As a matter of fact, I have a 12 copy of that. I don't know how I got it, but 13 I do have it. I've seen this before, yeah. 14 Q. Do you know who prepared this? 15 A. No, not at all. Not at all. 16 Wait a minute, can I take it back? 17 Q. If you like. 18 A. I think this may have come in 19 with what's his name? Pepe. It could have 20 come in with Pepe. This could have come with 21 Pepe. I said I seen it before, now I 22 recognize the word, in leather. Yeah, as a 23 matter of fact I think it came as part of the 24 package. But why would it have a drawing like 25 this? It doesn't add up now, does it?</p>	<p style="text-align: right;">Page 280</p> <p>1 G. Hayden 2 using Plaintiff's Exhibit 22 in any way on 3 this project? 4 A. No, not at all. Can I see that, 5 what is this? 6 MR. MANDEL: Off the record. 7 (Discussion off the record.) 8 (Plaintiff's Exhibit 23 a 9 document Bates stamped GH 97, was 10 marked for identification, as of this 11 date.) 12 Q. Turning your attention to what 13 has been marked as Exhibit Plaintiff's 23. It 14 begins on Bates numbered page GH 97 and 15 continues to GH 98. Do you recognize this 16 document? 17 A. Yes, I do. 18 Q. What is it? 19 A. Picture of products, picture of 20 furniture, really photographs of a cup, I 21 don't know. Some type of a light. Living 22 room, bedroom furniture, something like that. 23 It is furniture. 24 Q. Who provided that document to 25 you?</p>
<p style="text-align: right;">Page 279</p> <p>1 G. Hayden 2 Q. You're not sure where it came 3 from? 4 A. This one is where it says 5 leather -- maybe not. You know what, there is 6 no way this did not come from Pepe, okay. But 7 these -- no, no, no. I don't know. This is 8 not from Pepe. The crown and the base, 9 leather. 10 Wait a second. 11 MR. MCKEE: Don't think out loud. 12 When you reached a conclusion -- 13 A. Where the hell did this come 14 from? I have no idea. But I know I've 15 definitely seen it before. 16 Q. You don't recall where it came 17 from, that's okay if you don't recall. 18 Whose handwriting is on the 19 document? 20 A. That's what I'm looking at. 21 That's exactly what I'm looking at. It would 22 be Monica. It could be Monica who wrote these 23 drawings with her own writing. It could be 24 Monica. 25 Q. Do you have any recollection of</p>	<p style="text-align: right;">Page 281</p> <p>1 G. Hayden 2 A. Vladimir himself gave it to me by 3 hand. 4 Q. Do you know who prepared it? 5 A. He gave it to me. I got it from 6 Vladimir. 7 Q. Do you know who created that 8 document? 9 A. It is a picture. What do you 10 mean created? It is a photograph. Somebody 11 looked at a product and made a picture, and 12 took a picture and gave it to Vladimir. He 13 wanted to buy this. He wanted to buy chairs 14 similar to this, pictures similar to this. 15 Obviously a couch similar to this. He just 16 gets some ideas. He's just trying to buy 17 furniture before the construction is complete. 18 That's a little too quick, isn't it? Anyway. 19 Q. Did you have a response when you 20 saw those photos? 21 A. Didn't like them at all. 22 (Plaintiff's Exhibit 24, a 23 document Bates stamped GH 99 through 24 GH 101, was marked for identification, 25 as of this date.)</p>

71 (Pages 278 to 281)

<p style="text-align: right;">Page 282</p> <p>1 G. Hayden 2 Q. Plaintiff's Exhibit 24, that 3 document begins on Bates numbered page GH 99 4 and goes GH 101. Do you recognize the 5 document? 6 A. Yes. 7 Q. What is it? 8 A. Again furniture. 9 Q. Did you have the same reaction to 10 this furniture? 11 A. No, no, I did not. The whole 12 story was horrible, with the exception of the 13 headboard. The bedroom headboard was a little 14 too high but, yes, it is doable. We can do a 15 headboard like that if we want to. As a 16 matter of fact, we did that. Not that height. 17 But about this height, so you can see it looks 18 much better with a lower headboard? We did do 19 that. 20 We put the bed exactly the same 21 spot, got a lower headboard and fastened it to 22 the wall. It's up to you. You can make it as 23 tall as you want. We had it a little 24 shortened. 25 Q. Did you use any other photos in</p>	<p style="text-align: right;">Page 284</p> <p>1 G. Hayden 2 Q. Did you use that document for any 3 purpose? 4 A. No, not really. Because even 5 though you see the window opening is this big, 6 you can clearly find on the other document 7 that we measured the windows. 8 Q. Is there some reason that 9 document is in color? 10 A. Seriously I wouldn't know. Why 11 is it in color? Is it the only one in color 12 ever that I've seen? No. No, I don't know 13 why it is in color. 14 (Plaintiff's Exhibit 26, a 15 document Bates stamped GH 0128 through 16 GH 0129, was marked for identification, 17 as of this date.) 18 Q. I am handing you what has been 19 marked as Plaintiff's Exhibit 26. It begins 20 on Bates numbered page GH 0128 and continues 21 on to GH 0129. Do you know what this document 22 is? 23 A. Yeah, as a matter of fact I do 24 know what that is. This is an architect, 25 Mr. Krochay, I believe, over here, who</p>
<p style="text-align: right;">Page 283</p> <p>1 G. Hayden 2 Exhibit 24? 3 A. No, like this, no thanks. No, we 4 did not. No, we did not. This is the 5 headboard, it was fairly acceptable. 6 Interesting, but that's it really. 7 (Plaintiff's Exhibit 25, a 8 document Bates stamped GH 0120, was 9 marked as of this date.) 10 Q. I am showing you what has been 11 marked as Plaintiff's Exhibit 25. It is one 12 page, GH 0120. Do you recognize this 13 document? 14 A. Yeah, I've seen it before. 15 Q. What is it? 16 A. What it is is a floor plan of the 17 apartment, could be. I'm saying could be, a 18 reduced copy of the Architect Frank Williams 19 who designed the building, Frank Williams. 20 Q. But you don't know what it is? 21 A. I just said I do. I think it 22 could be a xerox reduced version of Frank 23 Williams's drawing, the architect who designed 24 the building, and it is pretty much what it 25 is, yeah.</p>	<p style="text-align: right;">Page 285</p> <p>1 G. Hayden 2 designed a very similar apartment on a 3 different floor, assuming. So I guess it was 4 given to me just to see how the foyer is 5 handled in a way or something to that effect. 6 But it was not -- yeah, it was given to me by 7 Vladimir himself. He gave me this, as a 8 matter of fact, this is -- yeah, he gave me 9 that also. 10 Q. What did you use it for? 11 A. As I said, to see how the foyer 12 is handled with the doors into the vestibule. 13 Just really kind of important to see how a 14 foyer is laid out. So he likes to see a 15 similar foyer. So he showed me this, can this 16 be done? I said I think so, I'm not -- 17 Q. Did there come a point in time 18 when there was some miscommunication between 19 you and the co-op board? 20 A. Never. 21 Q. Was there a letter that they sent 22 to you that wasn't responded to for sometime? 23 A. I didn't respond to their letter? 24 Q. That's what I'm asking. I am not 25 accusing you of anything, I'm just asking.</p>

72 (Pages 282 to 285)

<p style="text-align: right;">Page 286</p> <p>1 G. Hayden 2 A. No, not at all, no. 3 Q. I am handing you what is being 4 marked as Plaintiff's Exhibit 27. This 5 document is not Bates stamped. It is five 6 pages long and it appears to contain 7 construction drawings, many of which appear to 8 contain Garth Hayden's name on them. 9 (Plaintiff's Exhibit 27, 10 construction drawings were marked for 11 identification, as of this date.) 12 MR. MCKEE: What's the question. 13 Q. Do you recognize that document? 14 A. Yes, I do. 15 Q. What is it? 16 A. I'm going to say this could be 17 the start, certainly not completed, the start 18 of the construction drawings. Good start. 19 Not finished, but good start. It may have 20 been given to the client just to look at 21 before it goes any further. Progress print, 22 that's what it is called. You can call it 23 that. 24 Q. Do you know approximately when 25 they were created?</p>	<p style="text-align: right;">Page 288</p> <p>1 G. Hayden 2 A. You know what? I have no idea 3 what this is all about. It looks to me that 4 they are trying to get some of furniture 5 together or something like that. 6 Q. You didn't use these in creating 7 your construction drawings, right? 8 A. No, no, not at all. Totally 9 irrelevant. 10 (Plaintiff's Exhibit 29, one-page 11 document Bates stamped Medallion 014, 12 was marked for identification, as of 13 this date.) 14 Q. I am handing you what has been 15 marked as Plaintiff's Exhibit 29. It is a 16 single page that's Bates stamped Medallion 17 014. Am I correct that this was an initial 18 drawing that you prepared on how to one way 19 possibly renovate the apartment? 20 A. Yeah, yeah, sure, and it is also 21 Scheme B, that there's more than one scheme. 22 This is a schematic, it stands for scheme, so 23 SK is a scheme. So it is really not a 24 construction document. It is merely a 25 suggestion as to how this apartment can be</p>
<p style="text-align: right;">Page 287</p> <p>1 G. Hayden 2 A. It would be a date. The drawings 3 should have a date. It doesn't have a date, 4 no good. It doesn't have a date. 5 You could possibly compare this 6 to the first set of approved plans. It 7 definitely came before that. So somewhere in 8 that area this drawing was created. I really 9 can't tell. It is definitely our drawing, 10 there is no question. It is a progress print 11 during the construction -- during the 12 preparation of the construction documents. 13 This is probably a print, the initial printout 14 of the set coming up. 15 (Plaintiff's Exhibit 28, an 16 e-mail dated July 10, 2009 with 17 attachments, was marked for 18 identification, as of this date.) 19 Q. I am handing you what has been 20 marked as Plaintiff's Exhibit 28. It is a 21 July 10th, 2009, e-mail from Catherine Garcia 22 to you or to your e-mail address, I should 23 say. It is not Bates stamped, but it has four 24 pages of drawings attached to it. What are 25 these drawings of?</p>	<p style="text-align: right;">Page 289</p> <p>1 G. Hayden 2 arranged within these walls. 3 So if you want to layout the 4 furniture according to the architects you 5 don't have a good result. The focal point is 6 the baby piano when you walk in. It was 7 designed fairly well in terms of furniture 8 arrangement on the basis of the size of the 9 apartment and the scale of the chairs, yeah, 10 it is just to give a client an idea of what 11 furniture would look like at the end. It is 12 schematic. 13 Q. How many schemes did you do? 14 A. Two, A and B. Maybe C, I don't 15 know. Definitely A and B for sure. 16 Q. Has anyone agreed to indemnify 17 you for any settlement or judgment that maybe 18 reached in this case? 19 MR. MCKEE: Objection. Do you 20 understand what that mean? 21 A. I do. 22 I don't know if he really put -- 23 I spoke to Garry about that, Garry Braderman, 24 of course. And he said to me that you have 25 absolutely nothing to do with this. I said,</p>

73 (Pages 286 to 289)

<p style="text-align: right;">Page 290</p> <p>1 G. Hayden 2 do with what? And he said, of this potential 3 litigation, what have you. He did say that. 4 But did he send me something in writing 5 saying, no, he did not. 6 Q. Did he promise orally to cover 7 any settlement or judgment that you might have 8 to pay in this case? 9 A. Why are you asking me that? 10 Q. We got very little time. I just 11 need you to answer the questions. 12 A. He made representations that he 13 would. 14 Q. When did he do that? 15 A. I guess the moment I contacted 16 the insurance company about what happened. 17 Q. Was that shortly after this suit 18 was filed? 19 A. As soon as I was notified, yeah. 20 I spoke to him about that, it is kind of very 21 very disturbing, you know that. 22 Q. Do you recall what words he used 23 when he promised you he would pay you for any 24 judgment or settlement that you have to pay in 25 the case?</p>	<p style="text-align: right;">Page 292</p> <p>1 G. Hayden 2 MR. McKEE: He's entitled to 3 know. If you know off the top of your 4 head, just tell him. 5 A. It is \$200 an occurrence. 6 Q. What is the deductible? 7 A. 5,000. 8 Q. 5,000? 9 A. 5,000. 10 Q. Did your insurer require you to 11 pay the first \$5,000 in attorneys' fees? 12 A. Absolutely. 13 Q. Did you pay them? 14 A. Not yet, I'm sure I'm going to 15 get a bill one day that I don't know about, 16 right? 17 Q. Have you ever been involved in 18 any other litigation? 19 A. Just once. 20 Q. What did that involve? 21 A. It was another architect, believe 22 it or not, who for some reason built a 23 building based on information that I provided 24 to a client and he took it and he built the 25 building based on that and the building sunk</p>
<p style="text-align: right;">Page 291</p> <p>1 G. Hayden 2 MR. McKEE: Objection to form. 3 A. What words he used? 4 Q. Yes. 5 A. Well, I don't -- didn't really 6 pinpoint his answers to that either. Listen, 7 you know, things happen. He did say that he 8 would take care of stuff financially and I 9 don't have to worry about it. If that was the 10 case, why am I here? Why do I get my 11 attorneys involved? 12 Q. Is he paying your attorneys' 13 fees? 14 A. Not to my knowledge. 15 Q. Is your insurer paying your 16 attorneys' fees? 17 A. Of course. 18 Q. Have you paid any of your 19 attorneys' fees? 20 A. No. 21 Q. How much insurance do you have in 22 this case? 23 A. Why do you want to know that? I 24 mean I have a lot, I have a lot. 25 Q. How much?</p>	<p style="text-align: right;">Page 293</p> <p>1 G. Hayden 2 under water, and they got sued and I got 3 dragged into it, and got thrown out of court, 4 thank you. 5 Q. You won that case? 6 A. I didn't win anything. I just 7 didn't really want to talk to these people 8 anymore. 9 Q. Did you make a motion to dismiss? 10 A. He's the same law firm. 11 Q. Okay. 12 A. They made whatever motions they 13 did. Obviously the judge decided it at the 14 end of the day, that this is ludicrous and 15 absurd. 16 MR. McKEE: It is a directed 17 verdict. 18 Q. You were deposed in that case? 19 A. Sure. 20 Q. And did you testify at trial in 21 that case? 22 A. Yes, I sat there in front of the 23 judge. 24 MR. McKEE: No. 25 A. I did.</p>

74 (Pages 290 to 293)

<p style="text-align: right;">Page 294</p> <p>1 G. Hayden 2 MR. MCKEE: No, he did not 3 testify at trial. Before he took the 4 stand in court the judge dismissed the 5 claim. And we were removed from the 6 case. 7 THE WITNESS: Okay, good. 8 MR. MANDEL: That was your work, 9 Mr. McKee? 10 MR. MCKEE: It was Kevin O'Neil. 11 MR. MANDEL: Excellent work just 12 the same. 13 A. That's the only lawsuit I ever 14 encountered in my whole career. 27 years now 15 you got me with the second one which is more 16 bizarre than the first one, any way. 17 MR. MCKEE: Stop. Let's try to 18 get done. 19 A. Go ahead. 20 Q. Am I correct that you're a 21 licensed architect? 22 A. Yes, you are. 23 Q. Have you ever been disciplined or 24 sanctioned by any authority that regulates 25 your license?</p>	<p style="text-align: right;">Page 296</p> <p>1 G. Hayden 2 take half a wall out, no. 3 MR. MCKEE: Point of 4 clarification, you want to define what 5 you mean by complete? 6 MR. MANDEL: To complete the 7 construction on the project. 8 MR. MCKEE: From the start of 9 design phase? 10 THE WITNESS: To the move in date? 11 MR. MCKEE: To the move in date. 12 MR. MANDEL: Yes. 13 A. No, 18 months is really kind of 14 being nice and generous. It can take up to 15 two years for something like that. At that 16 scale it is a big project. 17 Q. How much can be completed in a 18 four-month period? 19 A. Probably the plans could be 20 drawn, possibly filed, maybe not even 21 approved. But also you do know that there's a 22 client approval, you know you do draw a set of 23 plans and the client has to look at it. If he 24 approves it a little quick, it is a little 25 quicker.</p>
<p style="text-align: right;">Page 295</p> <p>1 G. Hayden 2 A. No. 3 Q. Have you ever been charged with a 4 crime? 5 A. No. 6 Q. Have you ever been convicted of a 7 crime? 8 A. No. 9 Q. If everything had gone perfectly, 10 what's the fastest this project could have 11 been accomplished in? 12 MR. MCKEE: Objection. 13 A. Everything was done perfectly. 14 Are you stating things were not done 15 perfectly? 16 Q. I don't mean to imply things 17 weren't done perfectly. For a renovation of 18 this type, what's the fastest it could ever be 19 completed in the real word from the day the 20 client walks in your office? 21 A. Until the day the construction is 22 complete, I'd say 18 months, very reasonable. 23 Q. Would it be possible to 24 accomplish in four months? 25 A. No, not at all. You can't even</p>	<p style="text-align: right;">Page 297</p> <p>1 G. Hayden 2 Q. Would Mr. Voronchenko take his 3 time on this project? 4 A. A lot of time. A lot of time, he 5 likes to think. 6 Q. I have a series of documents that 7 ordinarily I would ask him to authenticate, 8 but because Mr. McKee has to go -- 9 MR. MCKEE: How long do you think 10 it will take? 11 MR. MANDEL: Well, what I'm 12 inclined to do is I think they're 13 mostly filings, things submitted to the 14 Department of Buildings. I think we'll 15 be able to stipulate on it, and I don't 16 want to take your time or his time 17 today. The potential risk that we're 18 going to need to call Mr. Hayden after 19 Medallion makes their document 20 production. 21 As I'm committed to, I am going 22 to do everything I can to avoid that, 23 because I don't want this deposition to 24 continue beyond today. What I would 25 like to do is just suspend this right</p>

75 (Pages 294 to 297)

<p style="text-align: right;">Page 298</p> <p>1 G. Hayden 2 now, and hope that we never have to 3 resume, but let everyone go for the day. 4 THE WITNESS: Okay, thank you. 5 MR. MCKEE: Hold on minute. If 6 you got a number of documents that you 7 want to authenticate, let's go through 8 them. I'll stay for a little while 9 longer. I sent an e-mail saying that 10 I'm running late, they'll just have to 11 wait. 12 Q. Turning your attention to what 13 has been marked as Plaintiff's Exhibit 30, it 14 is a two-page application entitled, PW-2: 15 Work Permit Application. 16 (Plaintiff's Exhibit 30, a 17 two-page application entitled PW-2: 18 Work Permit Application, was marked for 19 identification, as of this date.) 20 A. Okay. 21 Q. Do you recognize this document? 22 A. I recognize the title of the 23 document. Application of Permit, that's what 24 it means, so -- 25 (Plaintiff's Exhibit 31, document</p>	<p style="text-align: right;">Page 300</p> <p>1 G. Hayden 2 TR 1 is signed. And I don't know what the 3 TR 1 is doing with the second filing. It does 4 not go together. Look at the date. 5 MR. MCKEE: That's why I just 6 grabbed it. 7 Q. Let's just turn to the last 8 page of this document. I think he's been 9 clear on what's right or what's wrong, unless 10 there is something you would like to correct. 11 Just turning your attention to 12 the last page of this document. 13 A. Sure. 14 Q. What is this page? 15 MR. MANDEL: For the record it is 16 GH 360? 17 A. The plumbing, yeah, the plumbing 18 work that was done in this apartment, was 19 signed off by the Buildings Department on that 20 same date testifying to the fact that the 21 plumbing is done perfectly acceptable on 22 10/7/2011. That's very good news. 23 Q. In all capital letters next to 24 what appears to be document number 1, it says, 25 "No change in use, egress or occupancy." Is</p>
<p style="text-align: right;">Page 299</p> <p>1 G. Hayden . 2 Bates stamped GH 345 through GH 360, 3 was marked for identification, as of 4 this date.) 5 Q. I am showing you what is being 6 marked as Plaintiff's Exhibit 31. It begins 7 on Bates GH 345 and goes through GH 360. This 8 is how this document was produced to me. I'm 9 not sure that all these pages should be 10 together. 11 A. Okay. 12 Q. Turning your attention to page 13 GH 355, is that your signature? 14 A. On the TR 1, yeah. 15 Q. Was this a W-1 that you submitted 16 to the Department of Buildings? 17 A. No, it is not because it should 18 have also have had seal and signature on here 19 as a revised, as-built, this is probably 20 just -- it is not even signed. It is not 21 signed. The only one that seems to be 22 properly signed is the TR 1, which is control 23 and inspection. 24 Q. What is the TR 1? 25 A. Technical Responsibility, and</p>	<p style="text-align: right;">Page 301</p> <p>1 G. Hayden 2 that an accurate description of the renovation 3 that was performed on the apartment? 4 A. Absolutely. 5 Q. Was there any change made in 6 egress? 7 A. No. 8 Q. Turning your attention to what 9 has been marked as Plaintiff's Exhibit 32, 10 which begins on Bates number page GH 361 and 11 continues through page 364. 12 Do you recognize this document? 13 (Plaintiff's Exhibit 32, document 14 Bates stamped GH 361 through GH364 was 15 marked for identification, as of this 16 date.) 17 A. Yeah, that's probably your second 18 amended, right? Something like that. This is 19 the last amendment, 10/21/2011, as-built, 20 yeah, this is the one that's filed, the last 21 amendment that you looked at. I said the 22 paperwork attached to the amendments, this is 23 it. 24 Q. Does this refresh your 25 recollection as to when the construction was</p>

76 (Pages 298 to 301)

<p style="text-align: right;">Page 302</p> <p>1 G. Hayden 2 complete? 3 A. Yes, absolutely this is as built, 4 that means everything is done and over with, 5 yes. 6 Q. Would you have filed this 7 document after construction was complete? 8 A. Shortly or otherwise I filed it. 9 I was told construction was done, go take a 10 look, and can you get us the file soon. 11 Q. Am I correct you filed this 12 document on October 21, 2011? 13 A. 10/21/2011, yeah, very recent. 14 (Plaintiff's Exhibit 33, a work 15 permit Bates stamped GH 034 was marked 16 for identification, as of this date.) 17 Q. I just handed you what has been 18 marked as Plaintiff's Exhibit 33. It is 19 one-page Bates numbered GH 034. What is this 20 document? 21 A. It is a work permit. Copy of the 22 work permit that was given to the contractor 23 on 4/28/2009. The life span is only three 24 months. Obviously he got another one after 25 this.</p>	<p style="text-align: right;">Page 304</p> <p>1 G. Hayden 2 drawing A-5. It says paperwork saying what 3 you're sending to be reapproved by the 4 Building Department. 5 (Plaintiff's Exhibit 35, an 6 e-mail, dated April 18, 2009 was marked 7 for identification, as of this date.) 8 Q. I am handing you what has been 9 marked as Exhibit 35, Plaintiff's Exhibit 35, 10 it is an April 18th, 2009 e-mail from 11 Mr. Tatalovic to yourself. Did you receive 12 this e-mail? 13 A. I'm sure I did. But the shower, 14 in fact, stayed. So obviously we saw that. 15 Q. And this e-mail says -- 16 A. Shower, yeah, go ahead. 17 Q. "Shower in the powder room stays 18 like we discussed. Everything else stays the 19 same like in your plan, I'm going to call you 20 on Monday." 21 Did everything else stay the same 22 after this e-mail was sent? 23 A. I mean, up to the timing of this 24 e-mail everything stayed the same. The second 25 they could change, but after that point, yes.</p>
<p style="text-align: right;">Page 303</p> <p>1 G. Hayden 2 Q. Did you get another work permit 3 after that one? 4 A. I don't do that, contractors do 5 that. I don't take out permits for 6 contractors, they do that. They can't work 7 with an expired permit. They should know 8 better than that. 9 Q. Did they obtain a subsequent 10 permit? 11 A. Of course, of course, of course. 12 (Plaintiff's Exhibit 34, document 13 Bates stamped GH 0036 through GH 0040, 14 was marked for identification, as of 15 this date.) 16 Q. Turning your attention to what 17 has been marked as Exhibit 34 which begins on 18 page number page GH 0036 and continues through 19 GH 0040, do you recognize this document? 20 A. This is the paperwork that came 21 with the second or first amendment to show the 22 dropped soffit, it tells you just that. 23 Ceiling details on lighting and soffits, 24 details in lighting, and that was submitted 25 with drawings, the plan A-1 through A-4, and</p>	<p style="text-align: right;">Page 305</p> <p>1 G. Hayden 2 Q. There were changes after 3 April 18th, 2009? 4 A. I'm sure, I'm sure. Just a 5 statement was made in reference to the shower, 6 essentially. And whatever was submitted 7 earlier, so he can change his mind any time 8 after that. 9 MR. MANDEL: I really appreciate 10 getting all those remaining documents 11 out of the way, both of you. 12 Technically I can't close the 13 deposition because we still may get 14 more documents from Medallion and 15 Mr. Voronchenko. But my hope is we 16 won't have to take anymore deposition 17 testimony. 18 THE WITNESS: Thank you so much, 19 I appreciate it. Thank you. 20 MR. McKEE: I take that position 21 under advisement. 22 MR. MANDEL: I understand that 23 everyone is reserving all their rights. 24 MR. McKEE: Yes. 25 (Time noted: 5:55 p.m.)</p>

77 (Pages 302 to 305)

<p style="text-align: right;">Page 306</p> <p>1 2 I, the witness herein, having 3 read the foregoing testimony do hereby 4 certify it to be a true and correct 5 transcript, subject to the corrections, 6 if any, shown on the attached page. 7 8 9 10 11 GARTH HAYDEN 12 13 14 15 16 Subscribed and sworn to 17 before me this _____ day 18 of _____, 2012. 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 308</p> <p>1 2 I N D E X (Continued.) 3 E X H I B I T S 4 PLAINTIFF'S PAGE LINE 5 7, A letter from 113 4 6 Medallion, Inc. dated 7 July 1, 2008, Bates 8 stamped GH 195 9 10 8, An eight-page e-mail 117 17 11 from Delta Corp., 12 dated July 22, 2008 13 9, An e-mail from Dragan 127 16 14 Tatalovic dated 15 June 5, 2009 16 10, Apartment drawings 160 21 17 11, A document Bates 238 22 18 stamped GH 301 19 12-15, 263 3 20 Architectural 21 drawings 22 16, An e-mail dated 267 14 23 July 7, 2009 from 24 Garry Braderman 25 17, An e-mail dated 268 25 26 October 20, 2009 from 27 Catherine Garcia 28 18, An e-mail from Dragan 270 10 29 Tatalovic 30 19, A series of drawings 271 7 31 Bates stamped GH 0017 32 through GH 0030 33 20, Documents Bates 273 25 34 stamped GH 031 35 through GH 032</p>
<p style="text-align: right;">Page 307</p> <p>1 2 I N D E X 3 WITNESS EXAMINATION BY PAGE 4 GARTH HAYDEN MR. MANDEL 4 5 6 E X H I B I T S 7 PLAINTIFF'S PAGE LINE 8 1, An e-mail with 30 8 9 attachments dated 10 June 5th, 2009, from 11 Dragan Tatalovic 12 2, An e-mail with 30 12 13 attachments dated 14 July 8, 2009 from 15 Dragan Tatalovic 16 3, An e-mail with 30 16 17 attachments dated 18 July 8th, 2009 from 19 Dragan Tatalovic 20 4, A letter dated 61 10 21 March 12, 2008, from 22 Medallion, Inc., 23 Bates stamped GH 162 24 through GH 165 25 5, A statement from 108 16 26 Garth Hayden 27 Architect, dated 28 August 11, 2008 Bates 29 stamped GH 193 30 6, A statement from 108 21 31 Garth Hayden, dated 32 July 27, 2009, Bates 33 stamped GH 160</p>	<p style="text-align: right;">Page 309</p> <p>1 2 I N D E X (Continued.) 3 E X H I B I T S 4 PLAINTIFF'S PAGE LINE 5 21, Documents Bates 274 16 6 stamped GH 033 7 through GH 035 8 22, A set of drawings 278 2 9 23, A document Bates 280 8 10 stamped GH 97 11 24, A document Bates 281 22 12 stamped GH 99 13 through GH 101 14 25, A document Bates 283 7 15 stamped GH 0129 16 26, A document Bates 284 14 17 stamped GH 0128 18 through GH 0129 19 27, Construction drawings 286 9 20 28, An e-mail dated 287 15 21 July 10, 2009 with 22 attachments 23 29, A one-page document 288 10 24 Bates stamped 25 Medallion 014 26 30, A two-page 27 application entitled 28 PW-2: Work Permit 29 Application 30 31, Document Bates 298 25 31 stamped GH 345 32 through GH 360</p>

78 (Pages 306 to 309)

<p style="text-align: right;">Page 310</p> <p>1 2 I N D E X (Continued.) 3 E X H I B I T S 4 PLAINTIFF'S PAGE LINE 5 32, Document Bates 301 13 stamped GH 361 6 through GH364 7 33, A work permit Bates 302 14 stamped GH 034 8 9 34, Document Bates 303 12 stamped GH 0036 through GH 0040 10 11 35, An e-mail, dated 304 5 April 18, 2009 12 13 DOCUMENT AND/OR INFORMATION REQUESTS 14 PAGE LINE 15 89 14 16 17 18 19 20 21 22 23 24 25</p>	
<p style="text-align: right;">Page 311</p> <p>1 2 C E R T I F I C A T E 3 STATE OF NEW YORK) 4 :ss.: 5 COUNTY OF NEW YORK) 6 I, Vicky Galitsis, a Certified 7 Shorthand Reporter and Notary Public within 8 and for the State of New York, do hereby 9 certify: 10 That, GARTH HAYDEN, the witness whose 11 deposition is hereinbefore set forth, was 12 duly sworn by me and that such deposition is 13 a true record of the testimony given by such 14 witness. 15 I further certify that I am not 16 related to any of the parties to this action 17 by blood or marriage that I am in no way 18 interested in the outcome of this matter. 19 In witness whereof, I have hereunto 20 set my hand this 2nd day of June, 2012. 21 22 23 24 VICKY GALITSIS, CSR 25</p>	

79 (Pages 310 to 311)